257 VOL. 4. X

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.
OCTOBER TERM, [redacted] 1921

Term No. [redacted] 257

CHARLES D. NEWTON, AS ATTORNEY GENERAL OF THE STATE OF NEW YORK, EDWARD SWANN, AS DISTRICT ATTORNEY OF THE COUNTY OF NEW YORK AND LEWIS NIXON, CONSTITUTING THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK, FIRST DISTRICT, APPELLANTS,

vs.

CONSOLIDATED GAS COMPANY OF NEW YORK, RESPONDENT.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED MARCH 17, 1921

(File No. 28164.)

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United States District Court

1

SOUTHERN DISTRICT OF NEW YORK

CONSOLIDATED GAS COMPANY OF NEW YORK,
Complainant

vs.

CHARLES D. NEWTON, As Attorney General of the State of New York, EDWARD SWANN, as District Attorney of the County of New York, State of New York, and LEWIS NIXON, Public Service Commissioner of the State of New York, First District,
Defendants

In Equity
15-358

2

Before
ABRAHAM S. GILBERT, Special Master

NEW YORK, July 15, 1919

APPEARANCES:

3

SHEARMAN & STERLING, Solicitors for Complainant

WILLIAM L. RANSOM
CHARLES A. VILAS
J. H. GOETZ
of Counsel

CHARLES D. NEWTON, Attorney General of the State of New York

WILBUR W. CHAMBERS, Deputy Attorney General, of Counsel

4 TERENCE FARLEY, Solicitor for the Public Service Commission

WILLIAM HAYWARD
GODFREY GOLDMARK
TERENCE FARLEY
H. M. CHAMBERLAIN
} of Counsel

WILLIAM P. BURR, Solicitor for Edward Swann, as District Attorney of the County of New York, State of New York
JOHN P. O'BRIEN, of Counsel

ADAMS & CHAMBERS Stenographers

5 The Master: Are you ready in this case, gentlemen?

Mr. Ransom: We are ready for the complainant.

Mr. Chambers: We are not ready, but I will wait with that for the present.

The Master: Mr. O'Brien, Assistant Corporation Counsel, has served upon the Master an order signed by Judge Manton, which appears to be without date, providing that all proceedings in the above entitled suit, being the suit of the Consolidated Gas Company of New York against Charles D. Newton and others, in equity, in the District Court of the United States for the Southern District of New York, including the proceedings before
6 the Master therein appointed, be and the same are stayed until the final determination of the Supreme Court of the United States upon an application by and on behalf of the City of New York for a writ of *certiorari* to review the decision of the Circuit Court of Appeals in the above entitled appeal, and until the final determination of all proceedings under said writ of *certiorari*, if the same is issued, all proceedings herein are stayed, upon the condition, however, that such determination shall be reached by the term of the Supreme Court of the United States to be held in the month of October 1919.

I suppose in view of the terms of that order, 7
unless it shall be subsequently vacated, there is nothing for me to do at this time.

Mr. Ransom: The order has not been served upon or in any way furnished to counsel for complainant.

The Master: At any rate it is served upon me, and I suppose that restrains me.

Mr. Ransom: I had no opportunity to examine it or the papers upon which it is based.

The Master: Meantime I will have to adjourn this.

Mr. Chambers: I wanted to state for the purposes of the record that I intended to make a formal application to adjourn the case because of my legal 8
engagement in the trial of a similar case in Albany, which proceeds to-morrow, and which has been on trial since March 31st, almost continuously. But, in view of the order which has been served on the Master by Mr. O'Brien, Assistant Corporation Counsel, I shall reserve my motion, because it now becomes unnecessary.

Mr. Ransom: That matter, of course, can be passed upon when it comes up.

The Master: What had we better do, mark the matter "stayed" or adjourn it to a day certain?

Mr. Ransom: Adjourn it for forty-eight hours, and we will deal with this——
9

Mr. O'Brien: I don't think there is anything to do but to consider it stayed.

Mr. Chambers: I don't think we should adjourn to a definite date.

Mr. Ransom: It could be adjourned until Thursday, and meanwhile I will deal with this paper which has just been served upon the Master.

The Master: Do I understand, Judge Ransom, that you intend to make a motion to vacate this order?

Mr. Ransom: I certainly do, immediately.

The Master: And your application is for an adjournment pending the making of that motion?

10 Mr. Ransom: I suggest that the Master adjourn pending our making that motion.

Mr. O'Brien: I submit that the order speaks for itself, and that there cannot be even an adjournment. These proceedings are stayed by reason of that order.

Mr. Hayward: If this stay is vacated, then it is up to them to summon these parties to appear before the Master on a day certain.

The Master: It is a matter of the practical handling of it. I do not think a stay which restrains proceeding with a matter means that an opportunity cannot be given to the other side to make
11 an application to have the stay vacated. The only effect is that if that order, by any chance, is vacated, then I do not have to give notice again to all parties. I do not think that is necessary.

Mr. Ransom: This is a stay obtained by an interest or an entity in no way a party to this case, and in no way appearing before you.

The Master: I understand that, but at the same time there is the order of a Judge of this Court which stays all proceedings. I think the practical way is to adjourn for a few days.

Mr. Hayward: I do not know how much you want to consider the personal convenience of counsel in this case, but I have come about a thousand miles
12 to be present at this hearing to-day, not knowing that this stay would be issued, of course, and Judge Ransom need not feel hurt because he did not have a copy of this, for I didn't have a copy or see a copy or know of the existence of it until I came to the door of the court room, so there has been no intentional effort to keep anything away from him, or to keep him in the dark. I understand that Mr. O'Brien did not receive it until five minutes before he came to court. Now, I would like to leave the city again to-day, and if we could have it left this way, that if Judge Ransom makes a motion to vacate this stay, and it is sustained, and the stay is vacated, couldn't we then have it understood that

we would reconvene here on say three or four or 13
five days notice from that time?

The Master: I will not do that because that postpones it too long. I think the Master is bound, in view of the terms of the order appointing the Master, to proceed practically without intermission from the earliest possible minute. I am frank to say that if Mr. Chambers had made his motion today for an adjournment, in view of the fact that it had already been submitted to Judge Mayer by correspondence, I should have felt that I had no power to adjourn it. I will say now for Mr. Chambers' information, that when that motion is renewed I shall feel that I haven't any power to consider it or 14
to grant it.

Mr. Chambers: I want to make it for the purpose of bringing it up on the record.

The Master: It is not a question of my considering it on the merits, it is a question of my not having the power. Otherwise I should probably rule entirely differently on some of these things.

Mr. Chambers: To-morrow at 2:30 I continue my trial in Albany, and it would be inconvenient for me to come down here again on Thursday. I will be trying that case.

Mr. Hayward: Do you think forty-eight hours notice—here is a stay by a Judge of this Federal 15
Court. Suppose it is vacated, do you think that forty-eight hours after the vacation of that stay would be an unreasonable time for counsel to assemble for the continuation of this case?

The Master: If that stay was improvidently granted then there should be no notice. If the stay has been properly granted then this matter will stand over until the fall. I don't know what power there is to review, or how it can be reviewed. I don't know what the jurisdiction of any other Judge is, and I don't know what can be done about it. I don't know anything about the merits of the City's application, but I do feel that if this order was improvidently granted, and is vacated by some

16 proper jurisdiction, then these proceedings should go forward forthwith.

I will tell you what we will do. We are going to declare this matter stayed, and the Master will direct now that counsel will have to keep in touch with the decision of the Court, and if that stay is vacated this case will proceed at 9:15 on the day following the vacation of that stay, if it is vacated, without further notice.

Mr. Hayward: I would like to renew the request that has been made by all the defendants to the complainant company to furnish the defendants here with an inventory of the property claimed by
17 the company to be devoted for the public service, and the value that they claim attaches to each of the items. I ask that in the interest of expedition.

The Master: This matter is stayed, and I will not take up such matters at this time.

Mr. Hayward: But your Honor takes up such questions as they ask you to take up.

The Master: What are any of such matters?

Mr. Hayward: Your Honor takes up the question of the adjournment, etc.

The Master: I have done that on my own motion.

Mr. Hayward: I would like to renew that motion, and would like Mr. Ransom to give us a
18 definite answer, whether he is going to furnish us with that inventory or not.

Mr. Chambers: I am not satisfied with the way this is left. I am in Albany trying another gas case. If this stay should be now vacated I will be in Albany trying a case, and certainly the Attorney General—common ordinary decency requires that I have an opportunity at least to come from Albany here, even though I have to ask the Supreme Court to adjourn there.

The Master: I have tried to work this out practically, Brother Chambers. I have been trying to arrange it for the convenience of everybody.

Mr. Chambers: You suggested Monday, and counsel seems to object to that.

The Master: If I cannot get counsel to agree I have to make some arbitrary disposition of it, I cannot please everybody. Whatever the decision in this case is, somebody is going to be displeased, but in this kind of a situation, where there is a stay, and where it is practically impossible to get it out of the way, if it can be gotten out of the way, for a day or two, I should prefer to have counsel let it stand over until some day. But if they will not agree to let it stand over until some day, then I will give notice that I shall expect counsel to proceed at 9:15 after the day of the vacation of the order. 19

Mr. Hayward: Will he serve us with an order?

The Master: I say it is up to you to find out if the stay is vacated, putting the burden on you gentlemen to find what action the Court takes. 20

Mr. Chambers: He will not give us notice, we are not parties to that proceeding, we haven't anything to do with it. We might not know the court at all, or anything about it.

Mr. Ransom: I shall inform counsel for the appearing defendants the minute a decision comes down. For instance, Col. Hayward has an office on my floor, the Attorney General has an office in the city——

Mr. Chambers: We want to be notified at the Albany office. 21

The Master: Let us see if we cannot get this to a situation where everybody will be convenienced more or less. Mr. Ransom, it is not going to be feasible or practicable for you to get a decision on the motion to vacate the order before Thursday anyhow, is it?

Mr. Ransom: I don't know, probably not.

The Master: Probably not. That means that we have one day to talk about this week, which is Friday.

Mr. Hayward: Unless the Judge would want to proceed Saturday and Sunday.

22 The Master: I am not going to proceed Saturday and Sunday.

Mr. Hayward: That is good, I am glad of it.

The Master: Why isn't it the clever thing to do to have an understanding so that everybody will be agreeable, that if this stay is vacated we will proceed Monday?

Mr. Chambers: That is, not that you adjourn it, but that you will not press it on before Monday or Tuesday?

The Master: I am not going to set it down in view of the points raised. I am going to assume that I am stayed, but I am trying to arrange in
23 advance, assuming that they are successful in vacating the stay, that the matter will not stand over indefinitely. The only point is that if they are successful in vacating the stay, to avoid giving another notice, which means that I will have to do it, and I don't want to be bothered with it if we can all agree that assuming that the stay is vacated, notice is given by Judge Ransom at any time this week to that effect, that then we can proceed on Monday of next week. If that can be arranged I will do that.

Mr. O'Brien: I stand on my objection that this proceeding is stayed.

The Court: Of course if the stay is vacated then
24 you are not entitled to notice.

Mr. O'Brien: Then it will take the usual course. I am not asking any courtesies of Judge Ransom.

The Master: What is the usual course?

Mr. O'Brien: I assume the usual course would be the serving of a notice that you are going to proceed.

The Master: How much time?

Mr. O'Brien: That is a matter of fine practice that I cannot say about just now.

The Master: I am trying to work it out practically.

Mr. Chambers: It would have to be sufficient time to give us an opportunity to come down from Albany.

The Master: What we want to accomplish is to 25
proceed with this case with the least possible friction. I should imagine that everybody, especially at this time of the year, would be anxious to avoid friction. Now, you take the position that you will not have an understanding with the court and the various counsel about proceeding, and you practically say to the Master, "You cannot do anything, you cannot have any gentleman's understanding about it at all. When that stay is vacated, if it is vacated, you must give us notice." My understanding of it is that I do not have to give notice——

Mr. O'Brien: That was predicated on your Honor's saying that we would have to keep in touch 26
with any decision that was rendered, and that forthwith, on the following morning, there would be a hearing.

The Master: I had already modified that by practically getting everybody to agree on next Monday morning. I now ask you if that is agreeable, and you say, "No, it must take its course." That means that Judge Ransom gives me notice, if he gives me notice to-morrow or Thursday that the order has been vacated, it puts me to the necessity of giving a notice to all parties, and to be perfectly frank with you, under those circumstances I should give the shortest possible notice. Then everybody else 27
is inconvenienced. I will give the Attorney General notice to come down forthwith, that afternoon, if necessary, or the following morning. Under those circumstances Col. Hayward will not feel at liberty to go away, I will feel that I cannot take up anything else. Of course we are stayed, and unless we can have a gentleman's understanding that the matter will proceed on Monday morning at 9:15 if the stay is vacated, we will leave it open, and I can give such notice as I think proper. What would you rather do?

Mr. O'Brien: I am reserving our rights under the order.

The Master: You are not impairing any rights.

28 Mr. O'Brien: They can have their understanding about it, but that is the position that I take, that the order stays you.

The Master: I am only talking to you as counsel for the District Attorney. I am not addressing you as counsel for the City in that appeal at all. I do not recognize you in that respect. I am talking to you only as counsel for the District Attorney.

Now, Col. Hayward represents the Public Service Commission, with Mr. Goldmark and Mr. Farley, Mr. Chambers represents the Attorney General, Judge Ransom represents the Consolidated Gas Company. They are all willing to enter into
29 an understanding, a gentleman's agreement, that if this stay is vacated, without further notice given by the Master, we will meet here at 9:15 Monday morning.

Mr. Hayward: How will we know?

Mr. Ransom: I will give you notice.

Mr. Chambers: If I come here, I will be here to make another motion for an adjournment.

The Master: Have somebody present representing you if you cannot be present, so that the question of notice will not be raised. If the application to vacate the stay is not acted upon between now and Friday night, then it will have to stand over without date until I give reasonable notice.

30 Mr. Hayward: I do not consider that there is any favor granted to me, either by you or Judge Ransom in this matter, nor any particular courtesy shown, and I do not insist on it at all. I would be perfectly willing to leave the matter this way, that if Judge Ransom succeeds in getting this stay vacated, then you, as the Master, taking into consideration the fact that one of the defendants that they have selected is at Albany, shall give such notice as you think lawyers and defendants should have, to come before you as Master.

Mr. Chambers: I subscribe to that position.

The Master: All right, then the case is marked "Stayed".

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.*, 31

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 22, 1919.

Met pursuant to adjournment.

Present: Counsel as before.

The Master: Are you ready to proceed?

Mr. Chambers: The Attorney General is not ready.

Mr. Ransom: I offer in evidence an order made by the United States Circuit Court of Appeals—— 32

The Master: I do not think it is necessary. Just note that the stay issued by Judge Manton and the order made by him, has been vacated. Proceed, Gentlemen.

Mr. O'Brien: If your Honor please, before we proceed, representing Corporation Counsel Burr, of the City of New York, I ask that the stay that was served upon you on July 15th be marked in evidence.

The Master: Mr. O'Brien, we cannot recognize——

Mr. O'Brien: I have been informed by you that it is in your office, and I ask that it be considered 33 to be present here, and that it be marked in evidence.

The Master: I cannot consider the City of New York in this proceeding, Mr. O'Brien—I am very sorry.

Mr. O'Brien: Well I, representing the District Attorney, one of the parties defendant, ask on his behalf that the stay be marked in evidence, and except to your Honor's ruling, if you deny the application.

The Master: I shall deny the application, upon

34 the ground that sufficient reference already appears in the record.

Mr. O'Brien: Then I would also ask that it be marked for identification.

The Master: I think I will deny that also.

Mr. Chambers: I also ask that the stay be marked in evidence, the stay presented by Mr. O'Brien at the last trial, for the reason that there may be some doubt as to the power of the Court to vacate it, so we would like to have it in the record.

Mr. O'Brien: That leads me to the statement, your Honor, that I call to your Honor's attention the paper that was handed up to you by Mr. Ransom, counsel for the plaintiff, a few minutes ago,
35 purporting to be an order dated July 16th, 1919, filed July 19th in the office of the Clerk of the Circuit Court of Appeals, purporting to vacate the stay which had been granted on July 15th by Justice Manton of the Circuit Court of Appeals. That order is a nullity, and void, and without power, and therefore I call to your Honor's attention that if you proceed to-day you are proceeding in violation of the stay that was granted by Mr. Justice Manton.

The Master: Anything further on that point, Mr. Chambers?

Mr. Chambers: No, except that I think the stay
36 ought to be marked.

The Master: I do not mean by way of argument, just by way of further statement.

Mr. Chambers: No, except that the stay, it seems to me, ought to be marked in evidence and shown in the record, and then the order vacating it should be likewise shown. Then I have a motion to make.

The Master: The Master rules, as already stated, that he does not recognize and will not recognize the City of New York in this cause. He further rules that sufficient reference was made on the last occasion to the order made by Judge Manton stay-

ing the proceedings. The Master is satisfied that 37
that order has been properly vacated.

Mr. O'Brien: I call your Honor's attention to the fact that Mr. Justice Brandeis of the United States Supreme Court, who is assigned to this Circuit, is absent from the Circuit and out of the country.

The Master: One moment——

Mr. O'Brien: I apprise you of that fact if you do not already know it, so you will know that you are proceeding in contempt of Justice Manton's order.

The Master: The Master, assuming responsibility for his ruling, will abide by the rulings already 38
made, and further rule that he will not receive in evidence either the order of Judge Manton, nor will he receive in evidence the order made by the three judges of the Circuit Court of Appeals vacating the order of Judge Manton. The Master rules that in his opinion the order of Judge Manton has been vacated, and that he is free to proceed.

The Master also rules that he will not mark for identification either order, it being unnecessary to this cause.

Exceptions will be allowed to Mr. O'Brien, as counsel to the District Attorney, and to Mr. Chambers, representing the Attorney General.

Now, will Col. Hayward likewise ask an ex- 39
ception?

Mr. Hayward: Yes, your Honor.

The Master: Mr. Chambers, is there anything further?

Mr. Chambers: If your Honor please, in accordance with the suggestion which I made on the 15th instant, that I would make a formal motion, or formal application to adjourn the trial of this case because of my legal engagement in the trial of a similar case now pending in the Supreme Court in Albany County, I make such motion.

40 First of all I present the original certificate, and will give the other side a copy of the affidavit and certificate, the original certificate of Mr. Justice Nichols, wherein he sets forth that there is now on trial in the County of Albany the action of the Municipal Gas Company *vs.* The Attorney General and others, which action was brought, as is shown by my affidavit, some time in September, 1918, and which action proceeded to trial in the Supreme Court in Albany County on March 31, 1919. This action which I refer to was brought by the plaintiff to have declared unconstitutional Chapter 227 of the Laws of 1907, which fixed the price of gas in the City of Albany at $1 per thousand cubic feet,
41 upon the ground that the Statute deprives the plaintiff of its property without due process of law.

The learned Justice further certifies that this trial has proceeded since the 31st day of March, 1919, and has now consumed forty days in the actual taking of evidence in court, and whatever recesses have been had were for the purpose of the convenience of counsel in collating and preparing tables of evidence.

Then the learned Justice further certifies that it will take three or four more days at the outside to finish the taking of testimony. Then I quote from his certificate:

42

> "This case (speaking of the Albany case) should be finished as speedily as possible, for the reason that the plaintiff is collecting $1.15 per thousand cubic feet of gas under the provisions of an injunction order, and I feel that the action being so nearly finished should not be broken into for the trial of other similar actions in the City of New York, there having been a very large amount of testimony taken"——

If your Honor please, I want to call your Honor's 43
particular attention to the paragraph which I have just read, wherein Mr. Justice Nichols says:

> "And I feel that the action being so nearly finished should not be broken into for the trial of other similar actions in the City of New York, there having been a very large amount of testimony taken, each party will be required to furnish briefs upon the facts and the law and proposed findings, which probably will consume at least two weeks. Mr. Wilbur W. Chambers has appeared and has charge of a large part of the examination of witnesses. Mr. Chambers is trying the case on behalf of the 44
> Attorney General. It would not be possible, in my judgment for the Attorney General to assign another deputy to complete the trial of this case. Mr. Chambers should continue until the trial is finished."

That is signed, Charles E. Nichols, Justice of the Supreme Court.

I support that certificate of the learned Justice by a letter which I wrote Judge Mayer on July 3, 1919, a copy of which has been furnished counsel on the other side, and Judge Mayer's letter of July 9, 1919; also a letter which he wrote to the Master, 45
dated July 8, 1919. In my affidavit I called the attention of the Court to the fact that in the Albany case the Attorney General represents—I do not see that, but I will make that statement. I do not see it in my affidavit, but it is a fact that the Attorney General represents more than twenty-six thousand consumers and that it would be a very great hardship on them to bring into the trial of that case with the trial of this case, when that case is so nearly completed, as is shown by the certificate of the learned Justice, who is sitting trying the case.

46 So, for these reasons, I ask that the case be further continued for a short time, until the trial of that case is completed.

The Master: This is the same application that was made to Judge Mayer, is it not, Mr. Chambers —or substantially on the same grounds?

Mr. Chambers: I would not say that. Really, my letter to Judge Mayer was not what I would call an application to adjourn, because that should be addressed here. But my letter to Judge Mayer was written, as I say in my affidavit, for the purpose of calling his attention at an early date to the fact that I had not yet completed the Albany case.

47 The Master: Well, as I understand the situation, Mr. Chambers, when the order was set appointing me Master, the question arose as to the date when the hearings should begin.

Mr. Chambers: Exactly.

The Master: At that time you presented to Judge Mayer your situation with reference to the Albany case?

Mr. Chambers: Exactly.

The Master: And at that time it was figured that, in view of your engagement in the Albany case and the necessity of counsel to prepare for this trial, a time should be fixed far enough away to give the counsel a fair opportunity. Judge

48 Mayer, as I understood it, took the position then that if you could not finish the Albany case, it would be necessary for the Attorney General not to take you out of the Albany case, but to assign somebody else to this case.

Mr. Chambers: No, that was not my understanding.

Mr. O'Brien: He said he would accommodate himself to counsel's engagements, and give him further time.

The Master: Just a moment. I am giving you my understanding of the situation.

Mr. Chambers: Yes, but your Honor was not 49
there.

The Master: I read the order. I also understand it to be a fact that you called it to Judge Mayer's attention several weeks ago the fact that you were still engaged in the Albany case.

Mr. Chambers: I did that on July 3rd.

The Master: Yes. Judge Mayer with reference to that situation in substance wrote me that he should expect me to proceed in accordance with the terms of his order; that is, Judge Mayer has ruled in substance that if you are not free to proceed with the case, the Attorney General should have assigned somebody else. 50

Mr. Chambers: Your Honor, may I respectfully say that there was no intimation of that so far as I ever heard, that the Attorney General was to assign somebody else to take care of this or that. As I have sworn in my affidavit, it was my understanding,—and of course I may be in error, but I don't think so—that on May 16th this case was to be further continued until July 15th, upon the assumption that I would have completed the Albany case by that time.

Mr. Ransom: May I say a word on that?

The Master: It won't be necessary, Judge Ransom, because my mind is fixed, as I stated at the 51
last session.

Mr. Chambers: It goes without saying that if that is so, then I had reasonable grounds to expect that if I had not completed the trial of that case by the 15th inst., through no fault of mine, which is a fact, then this Court would continue the case further, until I could be relieved of that engagement; because it is obvious, even though we are appearing in the United States Court, that counsel cannot be present in two courts at the same time.

The Master: There is no question about that.

52 Mr. Chambers: There is no law yet been devised by which that could be brought about.

The Master: There is no question about that, Mr. Chambers.

Mr. Ransom: But in another case tried by the Attorney General's office, and another of the New York City cases in which Mr. Chambers did not appear, and very competently appeared in behalf of the Attorney General, in that other case, the Queens County Lighting case is finished.

The Master: As I stated at the last session, I do not feel that I have any power to consider an application for an adjournment on the ground of
53 Mr. Chambers' engagement in the Albany case. I decline to consider the merits of that application from the standpoint of actual engagement. I do not feel that I have any power to adjourn for that reason. I have the power to do this, though, Mr. Chambers,—I have the power to let Judge Ransom proceed to introduce evidence, and I have the power to say to you now that if you feel that your presence in Albany is necessary, I will reserve to you the right when you get through with the Albany case, to object to any question that was asked and move to strike out any answer that was given, and I will consider it as if it was made at the time and direct the testimony to be physically stricken out, if it
54 should be stricken out in accordance with an objection properly made. In other words, I will protect your rights in every possible way—in fact, in every way.

Mr. Chambers: You mean I can go away and not be present.

The Master: I mean that you can go away and come back here, if you feel——

Mr. Chambers: And go back from the beginning?

The Master: And make such objections as you see fit. You won't lose anything.

Mr. Ransom: Well, that is during the period of 55
the actual trial of the Albany case?

The Master: Beg pardon?

Mr. Ransom: That is only during the period of the actual trial of the Albany case?

The Master: Yes.

Mr. O'Brien: Is counsel interpreting the Referee?

Mr. Ransom: I am asking a question.

Mr. O'Brien: I am going to object to it.

The Master: I understood Judge Ransom's statement——

Mr. O'Brien: He is not before the Public Service Commission now, where he can speak *ex cathedra.* 56

The Master: Judge Ransom, I understood, made an inquiry.

Mr. Ransom: Yes.

The Master: I have answered that inquiry.

Mr. O'Brien: I would like to ask your Honor before you make your ruling, if your Honor will hear me a minute——

The Master: Yes.

Mr. O'Brien: What you have just said in reference to the ruling already made by Mr. Justice Mayer leads me to ask you now, for the benefit of the defendants, if we are to understand by what you said to-day and what you said on July 15th, 57
that irrespective of the conditions that may appear or may surround any situation arising in the trial of this action before you, you must proceed and will proceed in spite of those conditions and finish this case before October.

The Master: I will make the statement that I intend to proceed with this cause this morning; that I intend to rule upon new situations as they develop; that this matter presented by Mr. Chambers has already been passed upon by Judge Mayer, and therefore I do not feel justified in reversing the order made by Judge Mayer. In any matter or situation that develops in the trial of

58 this cause I shall use my reasonable discretion in expediting the trial of this cause.

Mr. O'Brien: But counsel has now presented a certificate of a Supreme Court judge of the State of New York and his own affidavit in support of his request for an adjournment, which were not before Mr. Justice Mayer at the time that he made his ruling in his letter to Mr. Chambers.

The Master: I have ruled that the fact presented is no different from the facts presented to Judge Mayer, namely, the actual engagement of Mr. Chambers.

Mr. O'Brien: Well, in behalf of the District Attorney of New York County and also of the City
59 of New York, your Honor, I desire at this time, so there may be no misunderstanding in the record, to protest against your proceeding with these hearings, first, because the City of New York is vitally interested as a municipality and as a custodian of the rights of the consumers of New York City. The City of New York has not yet been allowed to intervene in this action. They have a legal right to be in it, legal rights to defend in it, and therefore these hearings should not proceed without the City being represented.

Again, I protest against the hearings going on, on the ground that there is no power in any court
60 to say that, willy nilly, a trial involving the vast interests of this case must be tried in the summertime, which is legally and generally recognized as a vacation period, and tried at a time when the District Court Judge who made such an order is himself on a vacation, at a time when the Circuit Court of Appeals is on its vacation, and at a time when everybody is recuperating to take up the work of a year in October.

I submit to your Honor, that there is not any power to force us to meet here at nine o'clock in the morning and proceed from day to day, and, as your Honor said, four times a week with four hour

sessions, each day, if necessary, to be finished in October. I protest and I reiterate the objection which I made on May 16, 1919, and I refer to the fact because counsel for the complainant in this case has indicated in the papers which he submitted last week to the Circuit Court of Appeals in support of an application for an order to vacate the stay—indicated that there was not any objection made to proceeding with this case. Now, there was objection made before Judge Mayer to set the date down for July 15th. I may say in support of my objection that, knowing something of the business of the Public Service Commission, being acquainted with the business of the Law Department of the City, every man and every assistant of the Corporation Counsel has been working night and day on various matters of vast importance; that I, to whom this matter of taking up this case has been assigned, have only just come out of a case that involved six months of trial; that I have not had any vacation except four or five days, scattered, since June 15th; that I seriously need a vacation after the laborious work in the Kings County case, which case is not as yet finished, counsel for the Gas Company having taken an additional month to prepare his brief, which has not yet been submitted and which may need a reply at any time. 61 62 63

In other words, I shall be compelled in that case which is pending, to devote my attention to it as soon as that brief is submitted, which may be on any day. I submit, your Honor, that in place of these demands on the time of the counsel for the City of New York, representing the District Attorney, that there is reason why these hearings should be postponed, and that in the face of the presumptions, generally recognized, also stated by the rulings of the United States Supreme Court, that a statute must be deemed to be constitutional unless beyond a reasonable and rational doubt it is

64 proved to be confiscatory—in the face of that fact and in the face of the fact that that is usually recognized and legally recognized that the summer and heated period of the year is a vacation period of the year, where court business and legal business is suspended, that these hearings should be adjourned. I therefore, concluding that protest, move that this trial and these hearings be postponed until October of 1919.

The Master: Mr. O'Brien, you have made the motion in behalf of the City of New York, and in behalf of the District Attorney. I decline——

Mr. O'Brien: That part which referred to the
65 City and being a party is confined to the City of New York.

The Master: I decline to entertain any motion on behalf of the City of New York. I understand the fact to be that an application was made to the United States District Court on behalf of the City of New York for leave to intervene. That motion was denied. I understand that an appeal was taken from the Order denying that motion to the Circuit Court of Appeals, and that that Order was affirmed. I must, therefore, in conducting this proceeding, rule that the City of New York has no standing in this Court, no matter how much merit there may be in your contention that it should have been
66 permitted.

Now with reference to the application made by you as counsel for the District Attorney, I can only say that the Court has ordered that this cause should proceed beginning the 15th of July. You apparently have a mistaken notion as to the summer. So far as the District Court in this District is concerned, I happened to notice that to-day Judge Learned Hand, the senior Judge, is at work; Judge Mack, I believe, is at work trying Admiralty cases; Judge Grubb, I believe is at work trying jury cases, and another judge, whose name I have

forgotten for the minute, is at work trying criminal 67
cases. So that the four parts of this Court are now at work during this, the so-called vacation season. It is likewise a fact that many of the other courts of this County, especially the criminal courts, have four or five parts working.

Mr. O'Brien: Yes, on jail cases—matters of life and death.

The Master: I do not know what the cases are, but the facts still remain, so far as I am concerned. I am merely an officer of the Court, directing that you proceed with the trial of the cause.

Mr. O'Brien: Well, I want to find out, your Honor, just about how far you consider your dis- 68
cretion here limited by the appointment of the District Court Judge. I think it is well for us to understand that in the beginning here.

The Master: My discretion, as I understand it, is limited to this—that I must proceed with the trial of this cause. If in the trial of the cause, owing to the necessity of the inspection of documents, the examination of testimony or any other matter relating to the actual trial of the cause, I believe a short session is proper, or adjournments for several days, are proper, I shall assume that jurisdiction. If I am told that Mr. O'Brien is unwell, is not feeling well, I shall assume I have the jurisdiction to post-
pone. But I do not understand I have any power 69
to postpone because Mr. O'Brien is engaged in writing a brief in some other case. Now I am trying to make it perfectly clear. That is my attitude.

Mr. Hayward: It amounts simply to this, doesn't it, Mr. Gilchrist, that the facts as they exist to-day and as existed the 15th of May were considered by Judge Mayer and also by yourself, as sufficient to postpone this case for sixty days, but not sufficient to postpone it for sixty-four days—sufficient to postpone it from the 15th of May to the 15th of July, but, still existing exactly as they were then, not sufficient to postpone it another week?

70 The Master: I am not going to get into a discussion with counsel, nor am I going to put myself in a position to be baited in a technical discussion of language. The fact remains that I deny the application for an adjournment.

Mr. O'Brien: I respectfully except.

Mr. Chambers: I want to finish; I was not quite through. I take an exception, and I am going to file my affidavit and certificate, but I had not finished quite.

Now, do I understand that I may go away and absent myself from the trial, and that all the rights of the Attorney General as a defendant, who repre-
71 sents, I take it, more than four hundred and ninety thousand consumers—that their rights will all be protected until I complete the trial of the Albany case, and until I have at least two weeks in which to prepare findings and brief?

The Master: No. I am going to rule now that if you deem it necessary to absent yourself until you finish the trial of the Albany case, which I understand is four court days, I shall reserve any rights that you have in the interim.

Mr. Chambers: Well, assuming those four days may run into ten days? Nobody can say. That is the Court's estimate.

The Master: I am assuming four or five or six
72 days, and I am not going to hold you to that definitely. If you believe, as I do, that your rights will not be imperilled, and that you can be constructively present, though taking no part in the proceedings, the other counsel making their objections, as they may have them, I will reserve the right for you to come in and make objection as if you were actually here at the time.

Mr. Chambers: Then to your Honor's ruling, and all of your rulings, I take an exception.

The Master: Well, you likewise take an exception to my permitting you to come in and object?

Mr. Chambers: Well, I take exception to it all, 73
because I am not satisfied, of course, with that course. I want an adjournment.

The Master: Of course, I am trying, Mr. Chambers, to extend a favor to you, to ease up the situation. Of course, if you object to my extending that favor, I will withdraw it.

Mr. Chambers: Then do just as you please, your Honor, because I was not asking for a favor; I did not so consider it. I thought we were legally entitled to an adjournment, and that is the ground on which I base my motion.

The Master: Then I will just deny your application.

74

Mr. Chambers: And to that I take an exception.

The Master: That is better.

Mr. Chambers: Now I file my affidavit and certificate and letter.

The Master: Yes.

Mr. Chambers: Could it be marked as an exhibit?

The Master: No.

Mr. Chambers: Then it is marked "Filed", as of this date?

The Master: I will mark it "Filed" in support of an application for an adjournment. (Taking papers.)

75

Mr. Hayward: Mr. Gilbert, do you consider in view of Judge Mayer's letter instructing you to go ahead with this case, which is binding on you, you have the right to withdraw from Mr. Chambers his right to cross-examine later, which was included in the same letter of Judge Mayer?

The Master: I have just denied Mr. Chambers' application.

Mr. Hayward: I know, but you suggested that you would deny him this right to come in later and cross-examine.

The Master: I did not say anything about it.

76 Mr. Hayward: I so understood it.

The Master: I said I have denied his application. I have made no representation, statements or promises now as to what I will or will not do. I think my attitude ought to be perfectly clear. It is my desire to facilitate all counsel in this case. The application now made by Mr. Chambers for an adjournment is denied.

Mr. Chambers: Now, is there any objection, if the Court please, to writing my affidavit right in the record as a part of the minutes so we will all have it?

The Master: I do not think I will encumber the
77 record with an application for adjournment. I shall mark the paper "Filed", and if you have any right to review you may refer to the fact that you filed with me this paper which I will mark "filed".

Mr. Chambers: I take an exception.

Mr. Ransom: The complainant has not had a copy of the affidavit until this moment, and we may wish to file an affidavit in comment upon some allegation of fact.

The Master: I do not think I will take it, Judge Ransom. I don't think it is necessary.

Mr. Ransom: I do not know that it is necessary.

The Master: I do not think there can be any dispute about the fact that Mr. Chambers is in that
78 case and I am going to assume it to be the fact and want the record to stand just that way.

Mr. Ransom: I call your Honor's attention to the fact, however, that Mr. Justice Nichols' certificate is wholly undated and deals with a date apparently before to-day.

The Master: I will take Mr. Chambers' statement that it applies as of to-day.

Mr. Chambers: If there is any doubt about it I will be sworn. He signed the affidavit at 4:30 last night.

The Master: No, I will take your statement of it. It was filed July 22nd.

Mr. Chambers: Namely, on July 21, 1919, at 4:30 P. M. 79

The Master: It will be noted in connection with Mr. Chambers' application for an adjournment that a certificate of Judge Nichols referred to by him was signed yesterday afternoon, July 21st, at 4:30. At 4:30?

Mr. Chambers: 4:30.

The Master: That is P. M. Now, Judge Ransom, proceed.

Mr. Ransom: If the Court please, I do not know whether your Honor feels that it would be helpful at this time to open somewhat with respect to the issues and the facts of the case.

The Master: I do not think so, Judge Ransom. 80 I have read the bill of complaint, and I have read the answer. I think I understand the issue, and I think the quickest way to do is to proceed.

Mr. Ransom: I think I will take your Honor's suggestion.

Mr. O'Brien: Your Honor, may I submit that there are a great many things that if cleared up by such a statement will——

The Master: I think we will clear it up by getting the proof.

Mr. O'Brien: (Continuing)—make this trial more expeditious.

The Master: I would rather do it the other way. 81

Mr. O'Brien: I will illustrate. There are allegations here made that the complainant has been without any profit on their investment during all of the period since this Act was passed, and when I called that affidavit to the attention of counsel for the complainant he indicated that that was put in the complaint only in support of some claim they were going to make for what they think is going value.

Now, I cite that as an illustration of the many matters that might be clarified by a statement of counsel at the outset as to what their position is.

82 The Master: I prefer not to have a statement; I prefer to have the evidence go in.

Mr. O'Brien: Before we proceed I would like to make a motion.

The Master: Proceed.

Mr. O'Brien: I move to dismiss the complaint of the complainant on the ground that the complaint does not state facts sufficient to constitute a cause of action.

That the complainant has an adequate remedy at law.

That the complaint does not set forth anything but conclusions of fact and conclusions of law, and
83 therefore, is not sufficient.

That the complaint fails to state facts showing the fair value of the property of the complainant.

In that connection I want to call your Honor's attention to the allegations in the complaint that deal with this subject.

Substantially the claims made, or the allegations made in the complaint with respect to value are these:

> "1. The value of your orator's property devoted to its gas business as of December 31, 1905, as found by the United States Circuit Court in the said former suit to review the
> 84 said eighty cent law, as modified by the said decision of the Supreme Court of the United States, was $55,612,435.00. There has since then been added thereto property which has cost your orator not less than $14,085,265, making the total value under normal conditions of your orator's property presently devoted to its gas business at least $69,697,700; and the cost of reproducing said property at the present time would greatly exceed that amount. In addition thereto, your orator is possessed of going value and other intangible assets of great value, many of which were omitted from

the valuation of your orator's property in said former suit in the United States Circuit Court, which have since been recognized by the Courts and State Commissions as reasonable and proper; and there now exists an aggregate deficiency in your orator's earnings below six per cent, since the date of the said eight cent rate was made effective, in the amount of at least $12,000,000 which said sum should be added to the value of your orator's tangible property above stated, as going value, upon which your orator is entitled to a return." 85

Now, I submit, your Honor, that that allegation, or these allegations are not sufficient to constitute a cause of action, so far as the value of the properties entering into the plant in a rate case of this kind is concerned. First, they are in error in the reference to the holding made by the United States Supreme Court, which never did hold and never did affirm any holding of any Court below, to the effect that the value of the property at that time was in round numbers fifty-five millions of dollars. 86

Secondly, that the form in which the statements are there made is not a clear statement of facts from which the value may be concluded, and that, therefore, to that extent the complaint is insufficient. 87

I base my motion to dismiss the complaint further upon the ground that they do not clearly set forth the earnings of the complainant during the period covered by the complaint.

That they do not set forth the fact that the various subsidiary companies that are owned by the complainant, in which the complainant has moneys of the complainant invested, and which facts ought to be and must be shown here, so that they may be known and determined, as to how much money, net revenue, the complainant is receiving

88 out of the business of the subsidiary companies, which is necessary in order properly to pass upon the issues that the complainant would like to have raised in this case. In order to do that this Court must have before it and in the complaint facts that cover the business of the subsidiary companies of this complainant. If I may depart for a moment to illustrate for this reason, your Honor, that it may be that in a Company, a subsidiary of the complainant, the business is extravagantly done, money is wantonly spent for expenses, improper and uneconomic methods are used; in other words, the business of the subsidiary company, the value of their plant, the amount of money which they spend
89 and the net revenues which come from their business is just as much a part of this case as the direct business in gas making of the complainant under its own corporate title.

Now, these facts are wanted here. There isn't any clear statement of the revenue.

I make my motion further upon the ground that there isn't any clear declaration made of facts with respect to the business of merchandizing conducted by the complainant, showing the amount of moneys, separately stated in detail, clearly expressed, the amount of money that is spent in the expenses of that merchandizing business.

90 That there is no clear statement in the complaint of the amount, separately stated, apart from the gas producing business, of the amount of moneys taken in from the merchandizing business, so that your Honor may determine from the complaint clearly what the allegations of the complainant are with respect to that part of their business.

Now, I further move for a dismissal of the complaint upon the ground that there is no allegation there covering the matter of depreciation, which has been legally held to be a part of every plant of

this kind, and which must be shown in the com- 91
plaint as well as in the proofs which will follow.

Again, I move to dismiss the complaint upon the ground that the reproduction costs particularly as to the war time period, which we may say has extended from August, 1914, down to the present time —that that reproduction cost is not a fair measure of value; that as a measure of value, or even a gauge of fair value of the complainant's property it must be discarded, and therefore it is insufficient in this case to sustain a cause of action for the relief that is sought.

I base my motion further upon the ground that the complainant has not come into equity with clean 92
hands; that he has not shown that he has complied with the statute that regulates the quality and standard of gas that must be produced and furnished to the consumers before they shall be entitled to the returns prescribed in the statute.

That they come into equity with unclean hands because they have failed to show in their complaint what they have done with the moneys of the consumers that were impounded during the original action, that vast sum of money which I am informed is still retained by the complainant, which was received, or which was impounded during the previous action, of which this is a supplement; and that therefore they come here into equity with un- 93
clean hands, not disclosing the amount of that money, and not having turned it over to the consumers to which it rightfully belongs.

I base my motion further on the fact that the allegations in the complaint fail to show, even to allege, that they are making gas in the most economic and efficient manner; that they have the most efficient and economic methods of producing gas; that they are using the equipment which they have at their disposal and in their possession to the best advantage for all of the consumers of the complainant;

94 that they are conducting their business with fair economy and with proper efficiency.

These allegations are entirely wanting in their complaint, your Honor, and on that ground the complaint is entirely insufficient.

I base my motion further on the fact that complainant does not show in its complaint that they have adopted a method of correcting the wrong that they refer to of unjust return. They have not availed themselves of the remedy which ought to be in the first instance adopted, of presenting their claims as to the insufficiency of the return in the gas making business to them under the 80-cent rate since 1906, to the State legislature which passed
95 this statute. That in the first instance such a procedure should be made; that since 1906 thirteen years have elapsed, during which the legislature has been in session continually, to whom the claims might be presented, grievances might be expressed, in order that relief might come through the legislature, and thus in the proper form and method a remedy come to the complainant if they have any just grievance as referred to in the complaint.

I base my motion further, for a dismissal of the complaint, upon the ground that so far as any detail is concerned which would appear from the complaint or from the papers that have been sent to the
96 representatives of the defendant since the beginning of this action, that the period which the complainant intends to present to your Honor as a basis for making a claim of an unfair return under the statutory rate of eight cents, is the war time period; that that is not a fair foundation for any claim for an unfair return, for the reason that all of the implements and all of the materials that enter into the manufacture and the sale of gas were practically dominated, influenced, controlled and swayed by the Federal Government during the wartime period. I mean by that that the matter of coal was controlled by a Fuel Administration Board absolutely; that

the amount of oil, the distribution of oil and of fuel of that kind, was dominated and controlled by a Federal Board, even to the extent that a representative of the Standard Oil Company said under oath, "We want the war", meaning the Standard Oil Company. 97

Again, the matter of labor, and hence the cost of labor, was absolutely dominated by the Federal Government through the power vested in Congress to declare war, and to press it to a successful conclusion. I do not mean that the men were directly compelled to do this or that kind of labor, but I mean that through the selective draft law, the constitutionality of which has been sustained by the United States Supreme Court, over two millions of the flower of American youth were taken out of the activities of everyday life and sent abroad, and many other millions were engaged in war work here of various kinds, both in the camps and in the making and building of cantonments, the conducting of shipyards and of ammunition plants, so that we may say that it was the hand of the Government during that period that made the prices that have obtained for the various materials and elements that enter into the manufacture of gas, and that, therefore, as a matter of law, that period alone may not be fairly made, within the rulings of the United States Supreme Court, the basis for determining a fair return upon the fair value of complainant's property. 98 99

For these and for other grounds, your Honor, I move, therefore, that the complaint be dismissed.

The Master: What are the other grounds?

Mr. O'Brien: There were some minor details.

The Master: But you are asking me to dismiss the complaint on grounds not stated. We cannot very well do that.

Mr. O'Brien: For the further ground, your Honor, that in their complaint they have alleged

100 as elements of value, certain claims that are not properly in this complaint; in other words, that their conclusion as to an unfair return is in part based upon claims as to value which have no foundation in law. One of them is a going concern value, or a going value, which is absolutely, so far as we can adjudge it from the statement made in the complaint, not in conformity with the legal rulings of the Court upon that subject.

Again, that they have made claims here to a certain element of value for their franchises; that they have no right to make such a claim, even though for purposes of computation the United States Supreme Court made certain references to
101 the valuation which had been placed upon the franchises of the complainant company at the time of consolidation. Whatever may have been said by the Court on that matter to the contrary notwithstanding, there is no element entering into this case on which the complainant may base any claim for value of the complainant's property upon the basis of what it may have paid for franchises at the time of consolidation; and therefore, so far as the conclusions in the complaint are based upon the claim that they are entitled to any value in their property for franchises, that is invalidate, and therefore, to that extent the complaint is insufficient as
102 setting forth a cause of action.

The Master: Is there anything more, Mr. O'Brien?

Mr. O'Brien: That is all I can think of just now.

Mr. Hayward: If your Honor please——

The Master: I want to pass on this motion first.

Mr. Hayward: In conjunction with that motion——

Mr. Ransom: May I say a word on his motion?

The Master: No.

Mr. Chambers: I want to make a motion to dismiss.

The Master: You join in his motion? 103

Mr. Hayward: I join on behalf of the Public Service Commission, in the motion made by Mr. O'Brien, but I would like to be heard very briefly in connection therewith, particularly with reference to that part of the motion which Mr. O'Brien mentioned, but which he did not dwell upon to the extent that I would like to draw it to the attention of the Master.

The Master: What I had in mind, Colonel Hayward, was that I do not want to have extended argument upon this motion.

Mr. Hayward: I am not going to argue it; I am going to read two or three things out of the pleadings, if that is called argument. I think you should 104
know them before we start with this case.

The Master: I do not want to shut off any statement of conditions, but I do not want to enter into any extended argument.

Mr. Hayward: It will not be long or extended at all.

Mr. O'Brien referred to the proposition that this company has not come into this court of equity with clean hands. I do not know whether you know the status of the pleadings on that, or not. You are undoubtedly familiar with the statutes of this State providing that twenty-two candle power gas is required to be furnished by the gas company to 105
its consumers, such tests to be made more than a mile from the works, on a main at some point at least a mile from the point of production. Of course that is a fundamental prerequisite for any rights of this company, that they must comply with the law. It is a prerequisite to their license to do business. It is a prerequisite to any business that they want to transact or any claim that they want to make against a consumer.

Now, in their complaint, if the Master pleases, after referring to this consolidation agreement, by which the various gaslight companies of this city

106 were alleged to have been consolidated into a legal company, which created this mystic maze of pipes and mains which run through our streets with nobody knowing to whom they belong, or what gas is going into which one, they follow with this assertion in their complaint. I think it is the only one in the complaint. If it is not Judge Ransom can correct me, but it is the only one I recall.

> "Your orator has, ever since, been engaged in the business of manufacturing and selling gas to the inhabitants of the said City and County of New York, and to the City of New York, and has maintained and operated the
107 said mains, pipes and conductors in the said streets, highways and public places of the said City and County of New York, and has laid additional mains, pipes and conductors therein. Your orator is required by law, under penalty, to supply gas, upon application of the owner or occupant, to all buildings and premises within one hundred feet of any mains laid by it, and to furnish gas meters to its consumers without rent or charge."

That may be true, but the very essential allegation is utterly left out of this complaint that they
108 have been making and manufacturing and selling gas to the inhabitants of New York, which complied with the standard fixed by law. They are very careful to say that they must, under penalty, furnish gas within one hundred feet of their mains, but they omit to say that under the penalty they are required to furnish gas of a certain standard, without which they can have no right or claim in a court of equity.

Now, of course, somebody had to verify this complaint, the President of the Company, Mr. Cortelyou verifies it, either of his own knowledge or on information and belief. It may have been an un-

fortunate predicament that they found themselves 109
in, that nobody could verify a complaint in which it was alleged that gas of the legal, required standard had been furnished to the inhabitants of this city. Such will be shown to be the fact in this case, but they should not be allowed, because nobody could verify a complaint without subjecting himself to the pains and penalties of perjury, to come into a court of equity and lay a case before your Honor, leaving out that very essential fact.

The Master: Has any application been made to the District Court attacking the complaint?

Mr. Ransom: It was passed on on demurrer, all these matters have been urged and overruled. 110

Mr. Hayward: We did not demur.

Mr. Ransom: The District Attorney demurred.

Mr. Hayward: This point was not raised on the demurrer, and neither the Attorney General nor the Public Service Commission have demurred. We filed our answer at once, and here is a part of our answer that we would like to draw your Honor's attention to:

> "These defendants further allege that said Chapter 125 of the Laws of 1906 provides that the illuminating gas to be furnished by complainant thereunder shall have an illuminating power of not less than twenty-two sperm can- 111
> dles of six to a pound burning at the rate of one hundred twenty grains of spermaceti per hour tested at a distance of not less than one mile from the distributing holder by a burner consuming five cubic feet of gas per hour and these defendants allege that the complainant has persistently, continuously, knowingly and wilfully failed to abide by and comply with the foregoing provision of said Chapter 125 of the Laws of 1906 in that it has persistently, continuously, knowingly and wilfully failed during the year 1918 to furnish gas having

112 illuminating power of not less than twenty-two sperm candles of six to a pound burning at the rate of one hundred and twenty grains of spermaceti per hour tested as provided in the said act and has furnished gas throughout the year 1918 which when tested as provided by the said act had on the average an illuminating power much less than twenty-two sperm candles to a pound burning at the rate of one hundred and twenty-two grains of spermaceti. As a result of said failure of complainant to comply with the statute consumers received gas of a lesser heating and lighting value than they were entitled to under said act and were
113 obliged to and did pay more for gas necessarily consumed by them than they would have paid had complainant complied with said act of 1906 and the gas actually consumed was inferior to twenty-two candle power gas. These defendants allege that the failure of the complainant herein to furnish gas of a candle power provided for by the said act of 1906 was occasioned by the fact that the complainant voluntarily and without compulsion of law, pursuant to contracts made by it, extracted from the gas after its manufacture and before its distribution to consumers much of the en-
114 riching oil contained therein for the purpose of manufacturing a product known as toluol with the result that the gas when tested as provided by said statute had a candle power much less than twenty-two candle power. These defendants allege that despite this fact complainant during said year 1918 continued to exact and collect from consumers the rate of eighty cents per thousand cubic feet without giving to said consumers any credit or allowance whatever for the loss in candle power occasioned by complainant's voluntary act and

that complainant has included in its operating expenses of 1918 the cost of manufacturing 115
twenty-two candle power gas. These defendants allege that said acts of complainant were illegal and in fraud of the rights of consumers under said statute of 1906 and that because of said acts of complainant under said statute complainant does not come into this Court of equity with clean hands and in no event is entitled to charge to operating expenses of 1918 the cost of manufacturing twenty-two candle power gas or to any assistance or relief from this Court against the provisions of the act of 1906 (which complainant has violated as aforesaid in 1918) because of conditions, costs 116
or returns resulting from its operations during the said year 1918."

It seems to me, your Honor, that that is a pretty essential proposition in this case, that we should take up and discuss before we sit here for three or four or five months taking testimony. They will not dispute the fundamental principle of law that they must come into this Court with clean hands. They have not either alleged it in their complaint, and you should not permit them to introduce evidence here on the theory that they have alleged it. It seems to me that it is a point we should take up 117
and dispose of. It may obviate the necessity of taking lots of this testimony.

As I said in the beginning, I want to join with Mr. O'Brien in his motion, which included that, but at no length, and to direct your Honor's attention to the status of these pleadings on that matter. I renew that motion on behalf of the Public Service Commission.

Mr. Chambers: If your Honor please, I wish formally to join in Mr. O'Brien's motion and Colonel Hayward's motion, and to base my motion principally upon the ground that the complaint

118 itself fails to state facts sufficient to constitute a cause of action, and that a Court of Equity is not the only place wherein complainant might have the relief asked for.

The Master: Judge Ransom, what have you to say about the point as to the failure of the complaint to allege that the company supplied gas of the standard required by the statute.

Mr. Ransom: That was a matter which was specifically urged and specifically passed upon before Judge Mayer. The argument of counsel for the Commission amounts to this——

Mr. Hayward: Just a minute. Do I understand
119 you to say that this point was raised before Judge Mayer?

Mr. Ransom: It was.

Mr. Hayward: By whom?

Mr. Ransom: By Mr. Johnson, who argued the case for the District Attorney.

Mr. Hayward: I was not there, and I cannot say; but other counsel who were present say that that is not a correct statement.

The Master: Let me interrupt just a minute. That is what I am anxious to find out about, because if Judge Mayer has ruled upon that question, and over that objection has referred the matter to
120 me, to take the proofs, I shall, of course, feel bound by his ruling. I should like to get that clear now, if we can, as to whether that point was raised before Judge Mayer.

Mr. Ransom: I have a very clear recollection of it. Of course, other counsel may differ in their recollection; unfortunately we have not the minutes, so far as I know, of that very long argument. There were a number of matters urged on behalf of the District Attorney at that time, just as there have been to-day, which are matters of defense, and which appear if anywhere at all, in the Answer, and in fact, most of them do not appear even in the answer.

The Master: You were in Court on that day? 121

Mr. Ransom: Yes, your Honor, I was in Court on that day.

The Master: Your recollection is that the point was raised and argued?

Mr. Ransom: My recollection is clear that the question of non-compliance by reason of what was claimed to have taken place during the manufacture of toluol was urged, and was said to be solely a matter of defense, if proof at all could be urged and brought forward in support of what was stated.

Moreover, I am quite sure, your Honor——

The Master: You mean it was not touched on at all? 122

Mr. O'Brien: It was not. As a matter of fact, I have the argument of the District Attorney here.

Mr. Hayward: Mr. Goldmark's recollection is that it was not touched on and was not incorporated in the demurrer.

Mr. Ransom: I take it that what you are handing up is the printed brief?

The Master: Yes. Go ahead, Judge Ransom.

Mr. Ransom: What has been handed up to your Honor is a copy of the printed brief?

The Master: The brief of Mr. Swann.

Mr. Ransom: Submitted to Judge Mayer at that time. The argument of Mr. Johnson on behalf of 123 the corporation counsel went into many other questions——

Mr. O'Brien: I am not going to dispute that fact here. In the first place, the brief was not received by Judge Mayer.

The Master: Mr. O'Brien, please. Judge Ransom has the floor, and you will not interrupt. Let us conduct this with some sort of order.

Mr. Ransom: Here is a situation of a company which is furnishing gas under a statute. It is alleged in an answer that by reason of certain conditions which the answer sets out, that during a

124 certain period gas of less quality than should have been furnished, was furnished. Obviously that is a matter of defense; it is a matter of proof which may be offered by the defendants in support of the allegations of their defense, or which may be brought out through cross-examination of the complainant's witnesses in chief.

The Master: Of course, the question that I have is purely a technical question as to the complaint being sufficient; that is all. No ruling that I may make justifies any inference as to whether I do or do not agree with the contention that certain facts appearing, a certain result should follow. Of
125 course, if this gas company has been doing the things alleged in the answer read by Colonel Hayward, they haven't much of a standing in a Court of Equity, but that may be a matter of proof. There should be no misunderstanding as to my view.

I am looking at it purely from the standpoint of whether the complainant states a cause of action, and whether that question has been passed on by a District Judge.

Mr. Hayward: I was not present and I cannot say whether that was or was not raised when Mr. Johnson argued the motion. My understanding is that it was not incorporated in the demurrer, and therefore could not have been raised. Mr. O'Brien
126 and Mr. Goldmark were both present, and they say it was not raised, and I can find no record of its having been raised. I therefore feel that since the Public Service Commission, and the Attorney General, were not present and did not participate in that argument before Judge Mayer I feel that we have the right, before this testimony is taken, to have our day in court on the point, a point which we think is very important, and which, as a matter of fact we consider a fundamental necessity, a prerequisite to be alleged in this complaint, before these complainants can proceed with this equity

case for the relief that they pray for. They have 127
carefully refrained from alleging that, although they have as carefully pleaded other legal requirements, that they are required by law to furnish gas, etc., carefully leaving this one out, which, it seems to me, is the basic principle of their right for relief in a court of equity in the manner in which they have prayed for it. This is not a law suit, it is a court of equity.

The Master: Is not the fair inference from the complaint that they have been complying with the law?

Mr. Ransom: I think that is an absolute presumption.

Mr. Chambers: I didn't know you could presume 128
anything from a complaint. You may infer, but not presume.

Mr. Ransom: It is purely a matter of defense.

Mr. Chambers: There is no presumption that they complied with the law.

The Master: I have the power to permit an amendment of this bill if I reach the conclusion that that allegation is necessary.

Mr. O'Brien: May I supplement with two words what the Colonel has said? They are claiming here that they are entitled to a greater price for the gas they are selling, and they ask you——

The Master: No, they cannot claim that if they 129
are selling gas that is inferior to the standard required by law. If that is the case they cannot ask for a higher price.

Mr. O'Brien: The position of Col. Hayward is that before they pass the threshold of this court they must allege that fact.

Mr. Hayward: Your Honor, I think you have the right to allow——

130 Mr. Ransom: On the question of amending the complaint at this time——

The Master: You contend that this complaint does state that in substance?

Mr. Ransom: Yes.

The Master: Then I will deny the motion as made to dismiss the complaint, and deem the complaint amended to the extent of alleging that the gas furnished has been in compliance with law.

Mr. O'Brien: We want some one to say that under oath.

Mr. Chambers: You are allowing them to amend now in a manner in which perhaps they cannot amend. How do we know that such is the fact?
131 This bill of complaint is verified now, and you are allowing an amendment upon a question of fact pure and simple, a vital and material question of fact. How does your Honor know that that is the fact? They may come in and admit that that is not the fact, that they have not complied with the law. To that extent I think they should be compelled to file an amended bill, verified.

Mr. Hayward: I spoke about that, as the Master will recall. I would like to see an officer of this company—I would not like to see it, but I doubt if an officer of this gas company will come in here and verify the petition as amended in accordance
132 with the Master's suggestion.

The Master: I will tell you what I will do. I will deny this motion. I am going to reserve any application to amend the complaint until there is some proof in the record on this point. At this time I will deny the motion. I think the complaint is not as clear and precise as it should be on that point, but in view of the fact that a demurrer was interposed——

Mr. Hayward: Not by us.

The Master: I mean that a demurrer was interposed by a party defendant, and where there is a question of a difference of recollection as to the precise points argued—— 133

Mr. Hayward: You do not think that even if that point had been raised in the demurrer that we would be precluded from raising it now?

The Master: Oh, no. I have not finished yet. I am going to assume that the demurrer raised all the points of attack, and that the District Judge in passing on that demurrer passed on these other questions and reached a conclusion.

Mr. Chambers: That is a violent assumption.

The Master: It may be. I shall also assume that he reached the conclusion that I now reach independently, that the complaint liberally construed, is probably broad enough in its allegation to permit of the inference that the gas furnished was in compliance with the statute. 134

I will therefore deny the motion and note an exception on behalf of the various defendants.

Mr. Chambers: Exception on behalf of the Attorney General.

Mr. O'Brien: Exception.

Mr. Hayward: Exception.

The Master: Is there anything else in the shape of motions by the defendants?

Mr. O'Brien: Before the complainants proceed with the introduction of testimony, I desire to call attention to the fact that at the time discussion was had with the District Court Judge as to the date on which we were to proceed; that is, on May 16th, there was a request made of counsel for the complainant that he furnish representatives of the defendant with an inventory of the property of the complainant. The understanding at that time, although perhaps not clearly expressed by the rep- 135

136 resentative of the complainant, the understanding was that that would be forthcoming. Now, it has not come yet, and I want to say, so that we may have the record clear upon this point when we talk later on about expediting this trial, that an effort, repeated effort has been made to have the complainant furnish an inventory, the beginning of an investigation of the issues raised in this complaint. He has failed up to the present time to give us that inventory. That request was subsequently made in writing to him in a joint letter of the representatives of the defendant, and it was met with some evasive answer on the part of counsel for the com-
137 plainant. Further, a request was made that the representatives of the defendant be furnished with a statement of the cost, the original cost of the complainant's properties, and where that was not available, that they should be furnished with the estimated original cost, together with the bases on which the estimated original costs thus furnished, were based.

Now, that has not been furnished to us, and I would state this at this time, so that we may at the outset have in the record, not dependent upon the imperfect memories of men, but right in the record, the facts that affect this trial.

In this connection I would state that some state-
138 ments have been handed to us. There have been some accountancy reports, and there have been some statements of the company's properties, but what we want we have not had.

The Master: Sooner or later you will get it, won't you?

Mr. O'Brien: I don't know, your Honor. My experience would lead me to suspect that we would not; that we will only get what we pull out of them, notwithstanding the fact that they are pro-

testing they want to give us everything, and that 139
counsel for the complainant has been trying to try this case through correspondence.

The Master: I take it from my experience as counsel in the trial of cases, that if I think I am entitled to an inventory in the possession of the other party, I am going to get it sooner or later somehow. Am I right about that, or wrong?

Mr. O'Brien: Well, your Honor——

The Master: You are going to get it.

Mr. O'Brien: The central idea I have in mind now is expedition. That is the watchword, I am told, of these summer sessions.

The Master: As I understand it, from the state- 140
ment of counsel for the Gas Company, they want expedition, they want this matter hurried along, that it was on their application that we are having these summer sessions, because of the limitation of time. If they do not believe they are going to expedite matters by giving you these things now, it is up to them. They are assuming responsibility for that, because you need time to look at an inventory when you get it, I am going to give it to you, so the delay will be on them. I am not going to give any directions for anybody to produce papers, except when the time arrives, under ordinary notice to produce.

Mr. O'Brien: I want to have that clearly under- 141
stood on the record. Take the matter of the original cost, if we have a statement that the property cost so much, itemized, the date on which it was purchased, or where the original record is not available, a statement of the estimated cost, with a statement of the basis on which that estimate is made, then we would have something to proceed with. It is well to have it understood that we have asked for it, and if we get it in due time, we will be able the sooner

142 to go ahead with the defense, when that time comes, and we will be better able to conduct the cross-examination of complainant's witnesses.

The Master: I have it in mind and will have it in mind when the time arrives.

Mr. Ransom: In view of the things which have been said here by counsel for the various defendants, I do not know but what it would be helpful if I commented somewhat upon those statements.

The Master: No, I am not going to allow you to comment and spend time on that. I know that their contentions, some of them, are extremely interesting and rather important. If you depend upon what the evidence in this case shows, there is no
143 sense in our spending an hour or two in talking about that. If the evidence shows that the Gas Company has furnished gas of a lower standard than required by the statute, you will have a good deal of a burden to carry. Now, let us get to the evidence.

Mr. Ransom: First, as to the franchise documents of the Company. I have filed and have furnished to counsel for each of the defendants some weeks ago, a schedule of the various franchises and corporate documents of the Consolidated Gas Company as they are on file, pursuant to law, in the proper public offices, including the office of the Public
144 Service Commission, where they are filed pursuant to the order of the Commission, in case No. 2068. Most of these documents were printed in the record of the former trial, and I will offer in evidence the documents as summarized in this schedule. I do not think it is necessary to undertake to read the documents. I will read the schedule if that is desired.

The Master: Is it your idea that this record will not have a complete copy of these exhibits?

Mr. Ransom: I have indicated a place where they 145
have been previously cited, so that the stenographer in making up the record of this trial—we will furnish to him the printed case and the exhibits, so that the record of this trial will have them in the same complete form.

The Master: In other words, you are offering these documents in evidence here as if they were physically present?

Mr. Ransom: Yes, sir. I will bring them here if necessary.

The Master: With the same effect as if they were physically present?

Mr. Ransom: Yes, sir. 146

The Master: Offer the first paper.

Mr. Ransom: The first are the statutory franchises. I offer Chapter 367 of the Laws of the State of New York of 1884, entitled, "An Act to authorize the consolidation of manufacturing corporations".

Mr. Chambers: As I understand it, he does not have to offer a statute.

The Master: That is my understanding of it, but perhaps it would be better.

Mr. Ransom: I think that would be the better practice.

Mr. O'Brien: While the statutory franchises may be referred to, I will object and ask that the originals be read in evidence here. 147

The Master: This is a statutory enactment that he is now offering.

Mr. O'Brien: I am referring to these that he has incorporated in that list.

The Master: I am talking of the one exhibit that is now being offered.

Chapter 367 of the laws of 1884, considered as received in evidence and marked "Complainant's Exhibit 1".

148 Mr. Ransom: I offer in evidence the Consolidation Agreement dated September 29, 1884, between the New York Gas Light Company, the Manhattan Gas Light Company, the Metropolitan Gas Light Company of the City of New York, the New York Mutual Gas Light Company, Municipal Gas Light Company of New York, the Knickerbocker Gas Light Company and the Harlem Gas Light Company, for the consolidation of the companies into the Consolidated Gas Light Company of New York, filed and recorded in the office of the New York County Clerk on November 10, 1884, and in the office of the Secretary of the State of New York,
149 also on November 10, 1884.

This was printed as Plaintiff's Exhibit 1, originally at page 6597 C, and printed at page 4819 of the record in the prior case. I offer this as if physically produced, subject to any objections to be made.

Mr. O'Brien: That is what I arose a minute ago to object to.

The Master: You want the original in court?

Mr. O'Brien: Yes. I am not going to permit them, without objection, to submit schedules of property on this trial on the theory that they handed us a schedule or sent it to us by mail. We may as well have it understood at the beginning, so
150 that counsel may know what he has introduced.

The Master: He offers in evidence a document filed and recorded in the County Clerk's office of New York County, and in the office of the Secretary of State.

Mr. Ransom: And in the office of the Public Service Commission.

The Master: And in the office of the Public Service Commission. We are assuming now that the document is physically in Court, or that the record

of the County Clerk is here, showing the paper. 151
What objection would there be to it then?

Mr. O'Brien: I don't care what was in the record of the other trial.

The Master: I do not either.

Mr. O'Brien: And the fact that they proved things or attempted to prove things on the original trial will not govern my actions, as representing the District Attorney, in this trial. They must produce that document here, and then if they want to mark as an exhibit a printed copy, they can do it.

Mr. Hayward: The rules of evidence have provided for certain authentications of documents that are offered as exhibits. Why should Mr. Ransom 152
be allowed to make here a typewritten sheet of paper, and put the burden on us of going to the County Clerk's office, or to other offices, to see if it is a *bona fide* copy?

The Master: You don't have to do that.

Mr. Chambers: Let me suggest, this was printed in the other case at page 6597-C. Perhaps I would like to object to it on the merits. Now, if you will produce a copy, and allow us to reserve our objection, that might be sufficient.

Mr. Ransom: I am doing this only in a way which I thought might be an acceptable method of proof. I realize that if they require me to do more, I must
do it. 153

Mr. Chambers: How can we predicate an objection to a document which I confess I have never seen?

The Master: Where are the original documents?

Mr. Ransom: The original documents are in the office of the County Clerk, and in the office of the Secretary of State, and in pursuance of the requirements of law and the orders of the Commission, sworn and certified copies are on file in the office of the Public Service Commission.

Mr. Hayward: What has that to do with evi-
154 dentiary facts?

The Master: It has this to do with it. If the statute requires that a copy shall be filed with the Public Service Commission, and such certified or exemplified copy is produced, I will take it.

Mr. Hayward: But it does not so require.

Mr. O'Brien: He has not produced it, is objection No. 2.

The Master: That part of it does not interest me at all. It is easy enough to assume papers in court if we know what they are.

Mr. Ransom: I submitted this list to counsel for each of the defendants. I put in an indication of
155 where these documents had been previously printed, simply as a matter of convenience, that they might themselves more conveniently have copies of these documents, all of these documents at the time they were printed having been checked by their respective predecessors in office.

The Master: It is quite apparent to me, Judge Ransom, that counsel for the defendant feel that you should put in your proof without regard to any concessions by them, or cooperation from them.

Mr. Ransom: I have not asked for concessions.

The Master: Well, you do when you offer a paper that is not in court, by reference to it in some other
156 record. You had better arrange to get these documents.

Mr. Ransom: Is it the view of the Master that the production of a physical document from the County Clerk's office, or from the Secretary of State's office is necessary, or from the records of the Commission.

The Master: As I said, if the law requires sworn copies to be filed with the Commission, I would hold

that that was sufficient, but Col. Hayward says that the statute does not so require. 157

Mr. Ransom: I will put in evidence the order at the next hearing. The law empowers the Commission to require the filing of all franchise documents, including primary and secondary franchises, etc., that being a commission order made in case No. 2068. I will accept your Honor's suggestion, and if counsel for the defendants insist on it, I will produce the document.

The Master: I understand that the offer of Judge Ransom of the paper in question is withdrawn.

Mr. Ransom: Might that be considered as marked for identification? 158

The Master: I will not consider it at all.

Mr. Ransom: I offer in evidence Chapter 95 of the Laws of 1823, entitled, "An Act to incorporate the gaslight company of New York, passed March 26, 1823, incorporating the New York Gaslight Company with power and authority to make and manufacture gas to be used for the purpose of lighting said city or the streets thereof, and any buildings, manufactories or houses therein contained and situated."

The Master: That will be marked Exhibit 2.

Chapter 85 of the Laws of 1823 considered as received in evidence and marked Plaintiff's Exhibit 2. 159

Mr. Ransom: I offer in evidence Chapter 313 of the Laws of 1837, entitled "An Act to amend an Act entitled, 'An Act to incorporate the gaslight company of the City of New York'," passed March 26, 1823, which said Act was passed on May 2, 1837, as to the purchase, taking and holding of real or personal property.

160 The Master: That will be received in evidence as Exhibit 3.

Chapter 313 of the Laws of 1837, considered as received in evidence and marked Plaintiff's Exhibit 3.

Mr. Ransom: I offer in evidence Chapter 424 of the Laws of the State of New York, of 1855, entitled, "An Act to amend an Act, entitled 'An Act to incorporate the gaslight company of the City of New York'," passed March 26, 1823. This chapter 424 of the Laws of 1855, having been passed April 3, 1855, as to the purchase, taking and holding of real property.

161 The Master: That will be received in evidence and marked Complainant's Exhibit 4.

Chapter 424 of the Laws of 1855 considered in evidence and marked Complainant's Exhibit 4.

Mr. Ransom: I will indicate, if the defendant desire, where each of these documents is printed, but I think they all have these records before them.

The Master: No, just offer them in evidence.

Mr. Ransom: I offer in evidence the certificate of reorganization of the New York Gaslight Company, dated May 1, 1871, pursuant to Chapter 480 of the

162 laws of 1867, amending Chapter 37 of the laws of 1848, authorizing the formation of Gaslight companies, filed in the office of the Secretary of State on June 1, 1871, and in the New York County Clerk's office on June 1, 1871.

Mr. Chambers: That is in the same situation as the second paper, the Consolidation agreement which he has withdrawn.

Mr. Ransom: If objection is made, I do not press it at this time.

I offer in evidence Chapter 59 of the Laws of 163
1830, entitled "An Act to incorporate the Manhattan Gas Light Company", passed February 26, 1830, incorporating the Manhattan Gas Light Company, with power and authority to manufacture, make and sell gas to be used for the purpose of lighting the streets of the said building, and any buildings, manufactories or houses therein contained and situate, and to lay pipe for the purpose of conducting the gas in any of the streets or avenues of the said city.

The Master: That will be Exhibit 5.

Chapter 59 of the Laws of 1830, considered in evidence and marked Complainant's Ex- 164
hibit No. 5.

Mr. Ransom: I offer in evidence Chapter 161 of the Laws of 1847, entitled "An Act to provide for increasing the capital stock of the Manhattan Gas Light Company of the city of New York", passed April 29, 1847.

The Master: That will be received as Exhibit 6.

Chapter 161 of the Laws of 1847 is considered in evidence and marked Complainant's Exhibit 6.

Mr. Ransom: I offer in evidence Chapter 89 of the Laws of 1852, entitled "An Act to increase the 165
capital stock of the Manhattan Gas Light Company of the City of New York", passed March 25, 1852.

The Master: That will be Exhibit 7.

Chapter 89 of the Laws of 1852 is considered in evidence and marked Complainant's Exhibit No. 7.

Mr. Ransom: I offer in evidence Chapter 543 of the Laws of 1855, entitled, "An Act to increase the capital stock of the Manhattan Gas Light Com-

166 pany of the City of New York", passed April 17, 1855.

The Master: That will be Exhibit 8.

Chapter 543 of the Laws of 1855 is received in evidence and marked Complainant's Exhibit 8.

Mr. Ransom: I offer in evidence a grant from the Mayor, Aldermen and Commonalty of the City of New York to the Manhattan Gas Light Company, dated May 8, 1883.

Mr. O'Brien: I make the same objection.

The Master: Is that in the shape of an ordinance?

Mr. Ransom: It is in the shape of an ordinance.

167 The Master: Is it agreed, gentlemen, that that is in the shape of an ordinance adopted by the Board of Aldermen of the city of New York?

Mr. Ransom: This was granted by the Board of Aldermen and approved by the Mayor.

Mr. O'Brien: I object to it as incompetent, immaterial and irrelevant, and as *ultra vires*.

Mr. Chambers: I object to it as incompetent, because I do not know what it is. I have never seen it.

The Master: I will overrule the objection.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

168 Mr. Goldmark: This Court cannot take judicial notice of it.

Mr. Ransom: I will withdraw that at this time.

I offer in evidence Chapter 545 of the Laws of 1855, entitled "An Act to incorporate the Metropolitan Gas Light Company of the City of New York", passed April 17, 1875, incorporating the Metropolitan Gas Light Company of the city of New York, with power and authority to manufacture, make and sell gas used for the purpose of lighting

he city of New York and the streets, avenues, lanes, 169
lleys and squares thereof, and any buildings, manufactories or houses therein contained and situate, and the laying of pipes for the purpose of conducting the gas in any of the streets and avenues of the said city, and laying the necessary mains to furnish the gas to the inhabitants of said city.

The Master: It will be received as Exhibit 9.

Chapter 545 of the Laws of 1855 considered in evidence and marked Complainant's Exhibit No. 9.

The Master: That will be received.

Mr. Ransom: I offer in evidence Chapter 476 of the Laws of 1881, entitled, "An Act to provide 170
for the payment of certain certificates of indebtedness of the Metropolitan Gaslight Company of the City of New York", passed June 8, 1881.

The Master: That will be received.

Marked Complainant's Exhibit No. 10.

Mr. Ransom: I offer in evidence Chapter 944 of the Laws of 1871, entitled, "An Act to authorise the construction of gas works and the manufacture and sale of gas for the purpose of lighting a portion of the city of New York, and the streets, avenues, squares and buildings therein, and to lay pipes for that purpose", passed June 12, 1871, granting 171
authority to Isaac P. Martin and other named persons, to manufacture and sell gas for the purpose of lighting that portion of the city of New York lying north of 79th Street and including all of the Central Park.

The Master: That will be received.

Marked Complainant's Exhibit No. 11.

Mr. Ransom: I offer in evidence the Order in case No. 1823, made by the Public Service Commission

172 for the First District on December 1, 1914, authorizing the Consolidated Gas Company of New York to issue its convertible six per cent debentures in denominations of $500 and multiples thereof, aggregating the par value of $25,000,000, and so on, and so on, and to issue its further common capital stock to the amount of $25,000,000, par value.

Mr. O'Brien: I would like to ask the purpose of the offer?

Mr. Ransom: Because I regard it to be material.

Mr. Chambers: And now just a second, will you please?

Mr. O'Brien: On what ground? I object to it,
173 your Honor. The record will please state that counsel refuses to state why he offers it.

Mr. Ransom: As a part of the corporate history of this case.

Mr. O'Brien: Well, I object to it as incompetent, irrelevant and immaterial. It does not make any difference to the issues in this case what the Public Service Commission did in regard to an application for a bond issue.

Mr. Chambers: I am going to object to it as incompetent.

Mr. Ransom: In what respect do you claim it to be incompetent? It is under the seal of the Commission. That it is not a certified copy—do you
174 object on that ground?

The Master: How is this material?

Mr. O'Brien: It is not admissible anyway.

Mr. Ransom: As part of the corporate history of the Company. I will withdraw it for the time being if you are in doubt about it. We have a right to show the complete corporate history of the Company.

Mr. O'Brien: It is no part of this case. We may as well understand now, it is no part of this case

what the Public Service Commission may have allowed this company to do. 175

Mr. Chambers: It authorizes the issuance of twenty-five million dollars of bonds.

Mr. O'Brien: It is no part of this case. We are only concerned here with the fair value of the company's property.

The Master: It seems so to me.

Mr. Chambers: I confess I cannot see what is behind it or what purpose he had for offering it.

Mr. Ransom: I will withdraw it.

Mr. Chambers: What has happened to it?

The Master: The offer is withdrawn.

Mr. Chambers: It may be a good thing for us to have it in, if you will tell us what it is for. 176

Mr. Ransom: One of the decisions of the Supreme Court of the United States is that you are entitled to prove beyond your capitalization the corporate history of the company. It is clearly admissible.

Mr. O'Brien: It has been entirely discarded, your Honor.

The Master: I do not see how an order of the Public Service Commission authorizing you to capitalize has anything to do with the actual capitalization.

Mr. Ransom: That is a necessary step.

The Master: Hold it back until later on.

Mr. Ransom: Yes. I offer in evidence Chapter 125 of the Laws of 1906, as amended by Chapter 604 of the Laws of 1916, Chapter 612 of the Laws of 1916 and Chapter 666 of the Laws of 1917, prescribing a rate for gas to be charged by gas corporations within the territories served by this complainant of 80 cents per thousand cubic feet, and a penalty for violating the statute. 177

The Master: Is that 1916 or 1917?

Mr. Ransom: It was amended in certain portions

178 by subsequent statute, which was not applicable to the Borough of Manhattan.

The Master: That is received and marked Exhibit 12.

Received and marked Complainant's Exhibit No. 12.

Mr. Ransom: I offer in evidence the tariff schedule of the Consolidated Gas Company.

The Master: Of what?

Mr. Ransom: Of the consolidated Gas Company the tariff schedule, filed with the Public Service Commission for the First District, on October 3 1918, pursuant to the requirements of the Public
179 Service Commission's law, and the order of the commission in Case No. 2330, made on September 17, 1918, known as Consolidated Gas Company Tariff No. 1.

The Master: What is that tariff schedule?

Mr. Ransom: That is the rate tariff schedule.

Mr. O'Brien: I would like to ask counsel why it is offered?

Mr. Ransom: I have here the order pursuant to which the filing of the schedule is required. It is the schedule which prescribed the rate in effect.

Mr. Chambers: Suppose counsel lets us look at it.

Mr. Ransom: Yes.

180 Mr. Chambers: Of course it is all new to me.

Mr. Ransom: It ought not to be.

Mr. Chambers: Well, everything is new to me Judge in a law suit.

Mr. O'Brien: I do not see why that is admissible here. We are not concerned with what the Public Service Commission did, and if they have done anything with respect to this company, as to the defendants, it does not carry any sanctity—what the Public Service Commission may have done in the

past, when the present counsel was counsel for that Commission. 181

Mr. Chambers: I am going to object to it on the ground that the law which he just offered previous to this in evidence fixes the rates and the tariff which the company might charge in the City.

Mr. Goldmark: I would like to see it before determining whether to object to it or not.

Mr. Chambers: Does it change the 80 cent rate, or not?

Mr. Ransom: It does not.

Mr. O'Brien: It has no place in this case, your Honor. We have two or three very simple propositions here—that is the value of their property and the net revenue—and what this persiflage or camouflage that comes from the files of Lafayette Street are, we are not concerned with. I say that so counsel would be spared the trouble of producing any more things from that source. 182

The Master: How does that bear on the issue at all, Judge?

Mr. Ransom: It shows the rate and the conditions under which the rate is being charged. The Commission is specifically authorized by the Public Service Commission law to require the filing of a tariff and the Commission having had the tariff filed, the status of this rate before this Court is not complete without the showing of the conditions under which the rate—— 183

Mr. Goldmark: Is this part of your proof that you have complied with the law?

Mr. Ransom: It might be.

Mr. Goldmark: It might be, but is it?

Mr. Ransom: I did not offer it for that purpose.

The Master: I really do not see how it has any bearing on this issue.

Mr. Ransom: This company would have no right

184 to charge anybody anything for gas unless it was sanctioned.

The Master: I am going to take it, because I do not see that it makes any difference one way or the other. Later I will entertain a motion to strike it out. It will be received and marked Exhibit 13.

Received in evidence and marked Complainant's Exhibit No. 13.

Mr. O'Brien: I am going to call your attention to some of these things that are going into this record. It is something like this Scranton School of Correspondence method of trying a case. As to meters and imposing liabilities, the consumer
185 must protect the company's property on his premises from frost or injury, be responsible for and make good to the company any damage thereto. In the case of a pre-payment meter the consumer is responsible for all gas consumed and must pay upon demand all money and amounts found short in the money box, as indicated by the index of the meter.

The Master: How does that hurt you one way or the other? That is for leakage. Here there are a thousand ways in which this might lead into this case. Here is a lot of self-made evidence. It is ridiculous to offer it; it is ridiculous to offer such
186 a paper.

Mr. Ransom: Those matters lead right on into the accounting system of an imaginary part——

Mr. O'Brien: Will your Honor let me proceed further with reading some of these things. They speak for themselves, and I want to avoid arguing it. Under Chapter 4-C the company shall not be liable for any injury caused by explosion or otherwise except as the result of its own negligence or the negligence of an employee in the due perform-

ance of his duties as such. The consumer should 187
notify the company immediately of any interruption in the supply of gas. Under "5", leakage, the consumer must notify the company immediately on the discovery of any gas leakage. Under "6", access to company's property, the company is entitled to access to its property without the consumer's permission, between the hours of 8 A. M. and 6 P. M. Every employee of the company is authorized by it to enter the consumer's premises for the purpose of testing meters, collecting gas bills, he is supplied with a badge, etc. Under "7", deposits, a deposit of an amount equal to the estimated consumption of gas for two calendar months will be 188
required of the consumer unless waived by satisfactory reference required. Then after payment of bills and all the regulations, that is between the consumer and the company as to what they see fit to impose. It is not in this case, your Honor, and why should we cumber up this record with that stuff? What counsel tried to convey to your Honor was that under a certain requirement of the Public Service Commission's law, even within the statutory limit or maximum, they are required as a matter of form in order to help regulation on the part of the Public Service Commission and produce that working between the companies and the regulation commission—they are required to submit a schedule, 189
because of the fact that the statute only states the maximum, and to get an approval of that schedule, that price, before they imposed it upon the consumer. Now, that is one thing, but this encyclopædia is another, and I strongly object to it and ask your Honor to hold in abeyance your ruling.

The Master: For the time being the objection is overruled and the paper received in evidence.

190 Mr. O'Brien: Exception.

Mr. Ransom: I offer in evidence the order of the Commission on September 17, 1918, in case No. 2330, prescribing and requiring the filing of this schedule.

The Master: That will be received.

Mr. Chambers: Same objection.

Mr. O'Brien: On the further ground that the order of the Commission in regard to the filing of that schedule has no place in this case. I submit if we are going to waste our time in this kind of business we ought to follow the same rule as to requests made by the defendants.

191 Mr. Chambers: Same request made by the Attorney General and exception to the other and to this.

The order was received in evidence and marked Complainant's Exhibit No. 14.

Mr. Ransom: I offer in evidence the order made by the Public Service Commission from December 8, 1908, in case No. 578, prescribing a uniform system of accounting for gas corporations.

Mr. O'Brien: I make the same objection, your Honor, and that brings up this matter that we will have to urge, I assume, repeatedly through this case. That is the fact that they have a uniform system of accounts and the bearing it may have on

192 this case; and I want to assert here so that we will not be required to reiterate it, that what they may require in the Public Service Commission as to methods of keeping accounts to facilitate the regulation and investigation of the Public Service Commission, its auditors and inspectors, and so on, have no part in this case, and the defendants are not going to be governed by any uniform system of accounts and the fact that they may keep an

account that way does not give it any force or effect 193
in this case.

The Master: I shall overrule your objection, Mr. O'Brien, with the statement that the mere fact, in my opinion, offhand expressed, that the Public Service Commission requires accounts to be kept in a certain way does not necessarily prove the allegations of this complaint.

Mr. O'Brien: I may state for your Honor, if it may be of some interest to you, in a case that took some considerable time and was very studiously and scrupulously tried before Mr. Justice Greenbaum, an effort was made to bring in the schedules of operating expenses, drawn up in accordance with 194
the uniform system of accounts, and an effort was made by the company to throw a halo around certain records because they happened to have filed them at some time with the Public Service Commission as per the uniform system of accounts. His Honor ruled it out, and declared that he wanted the accounts brought in in a logical, simple way, that he could understand, and insisted on it, and they had to reform their accounts, and bring them in plain, ordinary, understandable figures.

The Master: I may do what the Judge did in that case.

The order was marked Complainant's Ex- 195
hibit No. 15.

Mr. Chambers: This Exhibit No. 14 did not take effect until September 17, 1918, just recently. I cannot see how you can claim any benefit from such a late order as that.

The Master: We will see what he claims after the evidence is in.

Mr. O'Brien: Give me the same exception.

196 Mr. Ransom: I offer the order made by the Commission on June 29, 1917, also in this case, No. 5078.

The Master: You better designate the Commission a little more definitely.

Mr. Ransom: The Public Service Commission.

The Master: What is it, the First or Second District?

Mr. Ransom: First district—modifying in certain respects this order of Sept. 17, 1918, as to the uniform system of accounts of the Gas Corporation.

The Master: I assume the same objections and rulings and exceptions, and that will be received as Exhibit No. 16.

197 The order is received in evidence and marked Complainant's Exhibit No. 16.

Mr. O'Brien: I think we ought to have some procedure laid down here at the beginning, so that we will know. I do not know why these should be run into the record before we have an opportunity to look them over.

The Master: Well, look them over.

Mr. O'Brien: He wants to have it marked before he lets me look at it.

The Master: Well, look it over; do not do what he wants.

Mr. Chambers: It is customary to hand counsel
198 papers about to be introduced.

Mr. Hayward: May I be heard for a minute, going back to Exhibit 13, which I have just had an opportunity to examine?

The Master: Judge Ransom, Mr. Hayward wants to move to strike out.

Mr. Hayward: My objection, along with that of the other defendants, was overruled. I note here on my first opportunity to examine this—not having been on the Commission when it was filed——

Mr. Ransom: Not having been present on the 199
Commission.

Mr. Hayward: Not on the Commission when it was filed. I was in France and resigned from the Commission the year before. It says any amendment to the schedule will be made by issuing new or revised individual sheets to be filed and become effective as noted thereon. If my objection is overruled and this is going in, I think those things should be produced, if there are any, and attached to this.

The Master: Colonel, I really do not know what that paper has to do with this issue.

Mr. Hayward: Well, I don't either.

The Master: I have permitted it in, because 200
Judge Ransom thinks it has some place.

Mr. Ransom: I am very clear about it.

Mr. Hayward: Just a minute. Let me finish my objection. Let me go along without interruption first, and we will do the same with you if you can hold yourself down. Paragraph 10, which may be the explanation of his desire to have this thing in, says that any and all rate schedules, contracts and regulations of this Company that be affected by ordinance or amendments thereafter issued, or that may hereafter be issued by the United States Fuel Administrator, Washington, D. C., or the Federal Fuel Administrator for New York State, or the 201
War Industries Board, or other Federal authority, acting under authority of an executive order of the President—of course, that would be the War Department, or anybody, or in furtherance of the Act of Congress approved August 10, 1917, are hereby modified and amended so as to comply in all respects with such orders and amendments. That is to say, anything that any of these various departments of the Government got out on the various

202 plans and the very face of this exhibit automatically modifies this exhibit to comply with that. That is the clear reading of it. In their failure to supply 22 candle power gas to the consumers of the city as required clearly by the Statute, we have pleaded, and I think the Attorney General also in his answer did, that they took out of this thing toluol, which reduced the gas away below the grade required by law. Now, that toluol was used in the manufacture of trinitrate, I think they call it. We call it commonly T. N. T.

Now, what I want to know is whether the Judge is going to claim subsequently that this schedule is
203 followed and modified by any order subsequently in Washington, and then if he is going to claim that they required it for Governmental purposes, and claimed that his company took this toluol out and could not furnish the 22 per cent. candle power. As this thing has been modified, changed and amended according to the rules and regulations, they ought to be attached to it before it is offered.

Mr. Ransom: If there are any further sheets, they will be offered.

Mr. Hayward: I do not mean the sheets, but this exhibit is predicated entirely upon the rules laid down in Washington by the War Department and everybody else. If it has a value, it only has a value
204 in connection with those rules and regulations.

Mr. Ransom: We will produce any there may be.

Mr. Hayward: It is not admissible on the face of it, it is modified by rules and regulations that we have not got here. Isn't that so?

The Master: I am going to try to express my view about it. I cannot for the life of me see what that clause has to do with this case at all.

Mr. Hayward: Neither can I.

Mr. O'Brien: Then it should be excluded.

The Master: Judge Ransom, trying this case for 205
the complainant, believed it had some bearing on the issue. He believed he ought to put these things in because they are corporate records. There is no jury here, and I can strike this paper out physically from this record any time before this case is closed. The fact that it is in does not make any difference with me in reaching a conclusion in this case. If before we reach the end of the case this paper should not be in the case, I will strike it out. If it does not cut any figure in the case I will leave it in, without wasting time discussing it. As to having certified or original documents, you are quite right about it. 206

Mr. O'Brien: Will you Honor hear me a minute about allowing this stuff in subject to our motion to strike it out?

The Master: No, I am not putting it in subject to a motion to strike out.

Mr. O'Brien: Well, why should it not, if it has all the earmarks of inadmissibility, be stricken out now.

The Master: I ruled I am going to leave them in.

Mr. O'Brien: Before you see them?

The Master: When they are offered and after you have discussed them. I have ruled 13 is in and 14 is in. 207

Mr. O'Brien: 13 is in without the War Department Orders.

The Master: 13 is in for what it is worth, so far as it goes.

Mr. Ransom: Anything further that is required will be produced.

The Master: I do not see how the Gas Company by any prior schedule which they filed with the Public Service Commission referring to rates for gas, can say they are going to give an inferior

208 quality of gas if some other department of the Federal Government says they have got to use more coal or less coal or inferior coal. The fact that they say something is not going to make anything; I do not see how it can.

Mr. O'Brien: Before I make my general objection, again I want to call your attention to the trouble——

The Master: This paper, all that now is, is an amending order of the Public Service Commission.

Mr. O'Brien: I want to illustrate what that is going to throw us into. It is going to throw on the defendants' attorneys, a terrible burden This record, I suppose, will entail thousands of pages. Now, there will be any number of exhibits, and all through these papers will be certain matters that have a bearing on this case.

The Master: What is the objection to this paper now?

Mr. O'Brien: The objection is that he attempts by putting this order in, to have read into the record here, definitions of capital, definitions of replacement, definitions of renewals, and definitions of many other things that have to do with a gas making concern. We are not governed by these definitions, even though Public Service Commission adopted them, and they are put in there for that purpose. They are not idly put in.

Mr. Ransom: May I just state the situation as as to why this Company keeps its accounts in a certain way?

The Master: I understand it.

Mr. O'Brien: The definition of capital, your Honor, and here one of the most important things will be the question of renewals, and he is trying to put in here some definition by the Public Service Commission of a renewal. We are concerned with

what the Court said on that subject, and not the Public Service Commission at the time Mr. Ransom drew the orders. 211

Mr. Ransom: I never saw the orders.

The Master: Exhibit 15 was the last exhibit. 15 was the order directing uniform accounts. Am I correct about that?

Mr. Chambers: That is 15.

The Master: This order dated the 28th of June, 1917, recites an order made December 8, 1908, prescribing a uniform system of accounts, and it orders that schedule as to the system of accounts, for gas corporations, be modified in the manner therein stated. 212

Mr. Ransom: And it amends the Complainant's Exhibit 15 in certain respects therein stated.

Mr. O'Brien: I may state further, your Honor, that there is an express provision in that order that it is not to be used in a rate case.

Mr. Ransom: But the accounts of the Company are kept with reference to these matters, and it is a matter of understanding the accounts of the company.

Mr. O'Brien: Your Honor will plainly see when we come to take up the question of renewals, the question of replacements and depreciation and many other questions, it will then be insisted by the complainant that the Public Service Commission has 213 defined what they are and will try to bind the defendants in this case with something the Public Service Commission has done when he was counsel to it. We are going to get into all kinds of trouble. It is not necessary; there is a simple job for the complainant in proving this case, and if they proceed along that line they will have cooperation, and if they attempt the other thing they won't have it.

214 Mr. Ransom: Won't counsel realize that the uniform system of accounts has been uniformly admitted in evidence in these rate cases?

Mr. Chambers: Is counsel going to claim that the definitions to which Mr. O'Brien has called attention, are binding upon the defendants in this case?

Mr. O'Brien: Did I hear an answer?

Mr. Chambers: Of course, counsel is not bound to reply, but I ask the Master if he will ask Judge Ransom if that is his purpose?

The Master: I will take it up as soon as I get this exhibit cleared up.

215 Mr. Ransom: Perhaps you would get a clearer view if you had the exhibit which it amends also. (Handing to Master.) Here is the situation where a Public Service laws requires the prescribing of a uniform system of accounts. The company has to keep its accounts as prescribed in those orders. It is made a penal offense not to do it. The company's accounts, as they will be put in evidence, have been kept as thereby shown.

The Master: What bothers me, Judge, is language like this: "It is the practice of the Commission in every case to require", and so on. What has that got to do with this case? I permitted in No. 15 because I thought that the requirement of the Public
216 Service Commission as to the method of keeping the accounts generally speaking ought to be in. But this order has so much stuff in it outside of that.

Mr. Ransom: Here are certain entries in the company's books. It would be a penal offense not to have those entries in that form as illuminating and interpreting what those items include. This plan of a uniform system of accounts is clearly admissible, just the same as in the Albany case they were admitted.

Mr. Chambers: Now, just a minute. 217

Mr. Ransom: Or anything which shows the way in which the accounts are kept is probative here.

Mr. Chambers: In the Albany case there was no tariff.

Mr. O'Brien: We will find out how the accounts were kept when we have the witness on the stand and the books in this court.

Mr. Ransom: Surely.

Mr. O'Brien: We do not need to have a uniform system of accounts, or some code by which it is to be interpreted. Counsel here on all sides understand them, and we will understand the figures. The idea of bringing in definitions of the vital 218 things in this case and trying to put them in evidence, when the courts have spoken about what these things mean, I think is ridiculous, and I tell your Honor it is not right to take up our time with this stuff—asking me to forego my vacation and bringing down a man from Albany and stopping a trial in Albany and taking up our time with these matters. It is absurd and unjust.

Mr. Ransom: If your Honor is willing to leave the question of the effect of a uniform system of accounts to a determination, as the question may arise, it certainly is admissible as against the defendant commission.

219

The Master: Yes, I think you are right about that.

Mr. Ransom: And here the law of the State permits it.

The Master: Why isn't that so, Colonel? Why is not the Public Service Commission estopped from asserting that these things are not correct when they ordered these things to be done that way?

Mr. O'Brien: That is apart altogether from the question of whether it should be admitted here,

220 your Honor. It could be admitted against them and not be admissible in this case?

Mr. Hayward: I have not seen it, of course. I think there is a provision in there that it is not applicable to a rate case.

The Master: The system or method of accounts prescribed by the Commission is designed to set out the accounts in connection with the income outgo, &c., and the Commission will determine in a proceeding involving the fixing of a rate or authorizing the fixing of securities just what consideration should be given the items in the several accounts. The definition of capital relating to the

221 cost of property is one of the items.

I am inclined to do this: I will permit counsel to read in evidence as No. 16, the order part——

Mr. Ransom: It is all clearly admissible. The question of its effect later may have to be determined. It is all a part of what this company has been required to do under a penalty, both criminal and civil.

Mr. O'Brien: Your Honor, I might state here and show you as one illustration of the entanglement it would lead to to have it on the record and have it in here, in the case I previously referred to, all the way through the case, when the gas company found themselves in some turmoil they reached out for

222 the uniform system of accounts, as to a life preserver. Now, it does not bind us if they want to define growing value.

The Master: Why doesn't it bind you?

Mr. O'Brien: Because it does not. They have not got any power to say what capital is, and they have not got any power to say what a renewal is so far as a rate case goes.

The Master: I am talking about the uniform system of accounts.

Mr. O'Brien: We have already passed on the uni- 223
form system of accounts.

The Master: That is the trouble.

Mr. Ransom: May I say one thing on that point The courts of this State have held in so many words that the provisions of this uniform system of accounts have the force of law——

The Master: I have not any doubt about it.

Mr. Ransom: And that they stand just exactly as though they were part of this Chapter 125 of the laws. They bind all of us.

The Master: I am perfectly clear in my mind.

Mr. O'Brien: Where do they hold that?

Mr. Ransom: In the bridge operating case and 224
in a number of cases.

The Master: I am perfectly clear in my mind that an order of the Public Service Commission directing this Consolidated Gas Company to keep their accounts in a certain way is proper in this case. Now, I would not have any hesitation in admitting this amending order as it amends Exhibit No. 15, were it not for these paragraphs which go apparently beyond the mere fixing of uniform accounts.

Mr. Ransom: Have you read the provisions of the Public Service Law as to what the Commission is required to do?

Mr. O'Brien: We do not care what the Commis- 225
sion is required to do, your Honor.

The Master: Yes, you do.

Mr. O'Brien: No, we don't.

The Master: Yes, you do.

Mr. O'Brien: What the Commission has done is not going to apply here. They will be trying to tell us, as they set up in their papers here, when the Public Service Commission holds a certain valuation that is binding on the defendants.

226 The Master: No, they do not.

Mr. O'Brien: This is part of that play.

The Master: But you are bound by this, as we all are bound by it. The Public Service law is put upon the statute books to regulate public utility corporations. The Public Service Commission has been put there to protect the public as well as the public utility corporations, and they have the power to make orders which have the force of law, and the City of New York and the District Attorney and you and I are bound by them just as much as though they were made directly against us.

Mr. O'Brien: Within the scope of their authority.

227 The Master: I am going to receive this as No. 16.

Mr. O'Brien: I note an exception.

Mr. Chambers: I take an exception.

Mr. O'Brien: Are we to understand, then, that we are bound by the definitions set forth in that paper?

The Master: I won't discuss it with you, Mr. O'Brien. I will not tell you what you should or should not understand. I have admitted that paper.

Mr. O'Brien: I understood you a moment ago that you would rule it out.

The Master: I reached the conclusion that I would rule it in. It is marked Exhibit 16. Draw any inferences you like from that.

228 Mr. O'Brien: Exception.

Marked Complainant's Exhibit No. 16.

Mr. Ransom: Some time ago I sent to each of the defendants a summary of each of the conveyances——

The Master: Let me interrupt you, Judge. Don't let us spread on the record at any time what somebody sent to the other side, because it won't help

s. Now just offer the paper in evidence. The pa- 229
r is not here, I take it?

Mr. Ransom: I have the originals of these deeds.

The Master: They are?

Mr. Ransom: They are here.

The Master: Let us have the original deed. Get
ut your original documents.

Mr. Ransom: I suggest that we would not need
o put it in the record, but I will furnish the
tenographer, if the defendant's counsel are willing,
imply the descriptive parts of these deeds, and that
ny party to the proceeding may have any other
ortions printed in the record or refer to them.

The Master: I think that you had better just 230
ffer the papers.

Mr. O'Brien: Your Honor, I may say so that we
on't have to repeat it, that I am going to object
o their admission on the ground there is no proof
s yet what properties they have engaged in public
ervice. I think they are putting the cart before the
orse.

The Master: Well, I will take it.

Mr. O'Brien: We want to spread upon the record
he consideration in the deeds.

The Master: I am going to take the deeds in evi-
ence as they are.

Mr. Ransom: I offer in evidence the deed of the 231
lew York Gaslight Company to the Consolidated
as Company of New York, dated November 10,
84.

The Master: When is it recorded?

Mr. Ransom: Recorded in the liber in the order
umbered on each of the six deeds. I will put them
one after the other and then it will appear. This
wers Blocks Nos. 951, 952, 953, 978, 979, 987 and
9. It will be referred to commonly as Hester
treet and the 21st Street properties. It is Liber

232 1863 of Conveyances, page 22, recorded on January 30, 1885.

Mr. Chambers: What part did you get that from in the schedule of conveyances?

Mr. Ransom: Well, I cannot put the schedule in.

The Master: Mr. Chambers, I have ruled that the individual paper may be introduced in evidence, otherwise, we will get nowhere.

Mr. Chambers: I want to find out which one it is, so I will not have to examine the papers separately.

Mr. Ransom: I have to put them in by deed.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial. It has not been shown
233 that the property herein described is used by the complainant at the present time, or during the time covered by the complaint in this action, to public purposes and in the public service.

The Master: Objection overruled. It will be received in evidence and marked Exhibit 17.

Mr. O'Brien: Exception.

Mr. Ransom: May it be considered as marked?

Mr. Vilas: It already has the marks of the reporter in the previous case.

The Master: Did you dictate the date and the place it was recorded?

Mr. Ransom: Yes. It is considered as marked?
234 The Master: Yes; Exhibit 17.

Considered marked Exhibit No. 17.

Mr. O'Brien: Your Honor, I object to it on the further ground that it has not been shown that the vendor had water rights and was in possession of various properties therein described and purporting to be conveyed.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Ransom: I offer in evidence a certified copy 235
f the deed of the Metropolitan Gas Light Company
o the Consolidated Gas Company, covering blocks
089, 1090, 1107, 1157, 1177 and 1457, commonly
eferred to as the 42nd, 62nd and 65th Street prop-
rties. This document was recorded in Liber 1863
f conveyances, page 33, on January 30, 1885. The
locument itself bears date November 10, 1884.

The Master: In the New York County Register's
ffice?

Mr. Ransom: The New York County Register's
ertificate.

Mr. O'Brien: I object to this as incompetent,
irrelevant and immaterial, particularly on the 236
ground that it has not been shown that the property
herein described is used in the Public Service, and
further on the ground that it is necessary for the
complainant in the gasmaking business.

Mr. Ransom: We, of course, expect to show that.
This is only to show the source of ownership.

The Master: Objection overruled. The papers
will be received as 18.

Considered as marked as Complainant's Exhibit No. 18.

Mr. Ransom: I offer in evidence the deed of the
Manhattan Gas Light Company to the Consolidated
Gas Company, covering blocks 981, 989, 982, part 237
of 870, 988 and 985, covering what is commonly
referred to as 14th Street and the general office
building, this deed being dated November 10, 1884,
and recorded in liber 1863 of Conveyances, page
27, on January 30, 1885.

Mr. O'Brien: Same objection.

The Master: Same ruling. It will be received as
No. 19.

238 Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 19.

Mr. Ransom: I offer in evidence the deed of the Harlem Gas Light Company to the Consolidated Gas Company, covering blocks 1682, 1683, 1704 and 1712, commonly known as the 111th Street property, the deed bearing date November 10, 1884, and recorded in liber 1863 of Conveyances, page 49, on January 30, 1885.

Mr. O'Brien: Same objection.

The Master: Same ruling. It will be received as Exhibit 20.

239 Considered as marked Complainant's Exhibit No. 20.

Mr. Ransom: I offer in evidence the original deed of the Knickerbocker Gas Light Company to the Consolidated Gas Company, covering blocks 1670 and 1692, commonly referred to as the 99th Street property, bearing date November 10, 1884, recorded in liber 1863 of Conveyances, page 46, on January 30, 1885.

The Master: I take it, Judge, that all these references to the liber and page of the record have reference to the New York County Register's Office?

240 Mr. Ransom: The New York County Register's, yes.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Same objection.

The Master: Received as No. 21.

Considered as marked as Complainant's Exhibit No. 21.

Mr. Ransom: I offer in evidence the deed of the Municipal Gas Light Company, to the Consolidated

Gas Company, covering blocks 1092 and 1093, com- 241
monly referred to as the 44th Street property, the deed bearing date November 10, 1884, and which is recorded in the New York County Register's Office, in liber 1863 of Conveyances, page 44, on January 30, 1885.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: Received as Exhibit No. 22.

Considered marked Complainant's Exhibit No. 22.

Mr. Ransom: I offer in evidence the original 242
deed of Robert Auld, to the Consolidated Gas Company, covering part of block 1092, which is part of the 44th street property, bearing date May , 1888, recorded in liber 2140 of Conveyances, page 269, on May 23, 1888, the record being in the New York County Register's office.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: Received as Exhibit No. 23.

Considered marked Complainant's Exhibit No. 23.

243

Mr. Ransom: I offer in evidence the original deed of Benjamin Weed to the Consolidated Gas Company, covering block 952, the 21st Street property, dated March 17, 1899, and recorded in the office of the Register of the County of New York on the 23rd day of June, A. D. 1902, in section 3, liber 83, page 320, indexed under Block No. 952.

Mr. O'Brien: Same objection and exception.

214 The Master: Same ruling. It will be received as Exhibit 24.

Considered marked Complainant's Exhibit No. 24.

Mr. Ransom: I offer in evidence the deed of Jacob A. Weil, to the Consolidated Gas Company of New York, covering Block No. 1642, property at 111th Street and Third Avenue, the deed bearing date January 7, 1893, recorded in liber 12, Block Series Conveyances, Section 6, page 394, on January 9, 1893.

Mr. O'Brien: Same objection.

The Master: Same ruling. Received as No. 25.

245

Considered as marked Complainant's Exhibit No. 25.

Mr. Ransom: I offer in evidence the deed of Emma Wood, to the Consolidated Gas Company, covering part of Block 870, which is part of the site of the General Office Building, the deed bearing date April 11, 1885, and recorded in liber 1870 of Conveyances, page 446, on May 5, 1885.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: Received as No. 26.

Considered as marked Complainant's Exhibit No. 26.

Mr. O'Brien: It would be better to state the consideration in the record.

The Master: It is all in the record. The paper is in evidence.

Mr. O'Brien: I mean in his description it might save a little time if he puts the consideration in.

Mr. Ransom: I offer in evidence the deed of Silas B. Brownell, and of Sarah S., his wife, to the Con-

solidated Gas Company of New York, covering part 247
of Block 870, which is the site of the General Office Building, bearing date of March 3, 1902, recorded in liber 77, of the block series of Conveyances, section 3, page 355, in the New York County Register's office, on March 3, 1902.

Mr. Chambers: It would help some, I know from my experience in these cases, to have the consideration stated right there, and we would not have to call on you for the deeds of each one of those.

Mr. Ransom: I am willing to make up a statement for it.

Mr. Chambers: Right from the deeds?

Mr. Ransom: We will make up a statement and 248
furnish it to you, or put it in evidence.

The Master: Same objection and ruling, and it is received in evidence.

Considered marked Complainant's Exhibit No. 27.

Mr. Ransom: I offer in evidence the deed of the City of New York to the Consolidated Gas Company as to property in Block 1692, containing covenants as to 98th Street, and being in relation to the 99th Street property, otherwise as more fully set forth in the deed, the lands affected by this instrument lying in section 6 of lot 1692, and recorded in the New York County Register's office, in liber 249
40, block series conveyances, page 312 on December 31, 1897.

Mr. O'Brien: Same objection.

The Master: Same ruling. It is received.

Considered marked Complainant's Exhibit No. 28.

Mr. Ransom: I offer in evidence the Executor's deed of Mary T. Constant, and others, as exec-

250 utors, to Consolidated Gas Company of New York, covering property in lot 8, block 1682, 11th Street property, the deed bearing date September 2, 1890, recorded in liber 2363 of conveyances, page 71 on October 1, 1890.

Mr. O'Brien: Same objection.

The Master: The same ruling.

Mr. O'Brien: Exception.

The Master: Considered marked Complainant's Exhibit No. 29.

Mr. Ransom: I offer in evidence the deed of John D. Crimmins, to the Consolidated Gas Company of
251 New York, dated December, 1892, covering property in Block 1999, the 132nd Street property, which was recorded in liber 13 of the block series of Conveyances, Section 7, page 4, on December 28, 1892.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Considered as marked Complainant's Exhibit No. 30.

Mr. Ransom: I offer in evidence the deed of Guiseppe Molea, and wife, to the Consolidated Gas Company, covering part of Block 1683, which is
252 the 111th Street property, the instrument being dated the first day of September, 1905, recorded in liber 108, page 149, New York County Registrar's office, on the 11th day of September, 1905.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 31.

Mr. Ransom: I offer in evidence the deed of the Lawyers Realty Company to the Consolidated Gas

Company of New York, relative to property in 253
Block 1028, 57th Street property, which bears date the 20th day of July, 1916, and was recorded in the office of the Register of the County of New York on the 21st day of July, 1916, in Block Series of Conveyances, Section 4, Liber 170, page 229.

Mr. O'Brien: Seventh Avenue and 57th Street?

Mr. Ransom: It is the 57th Street property.

Mr. O'Brien: The same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: It is received in evidence as Exhibit 32.

Considered marked Complainant's Exhibit 254
No. 32.

Mr. Ransom: I offer in evidence the deed of the Standard Gaslight Company to the Consolidated Gas Company, relative to property in Block 1998, commonly known as the 132nd Street property, the deed bearing date December 31, 1914, and recorded in Liber 175 of the Block series of Conveyances, Section 7, page 143, on January 14, 1915.

Mr. O'Brien: Same objection and exception.

The Master: Same ruling. It is received.

Considered marked Complainant's Exhibit
No. 33. 255

Mr. Ransom: I offer in evidence the deed of the City Real Estate Company to the Consolidated Gas Company of New York, certified copy of deed, certified by the New York County Register, dated July 22, 1910, property in Block 2583, recorded July 23, 1910, in Liber 76 of Conveyances, page 81.

The Master: Of Section what; is there any section on it?

256 Mr. Ransom: Section 10, Block 2583. This is the Tunnel Head property, at Locust Avenue.

Mr. O'Brien: Same objection.

The Master: Same ruling. It is received in evidence.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 34.

Mr. Ransom: I offer in evidence the deed of Ann McGuire to the Consolidated Gas Company of New York, relative to property in Block 2108, Section 8, the deed bearing date the 30th day of December, 1909, and the deed being recorded in the New York
257 County Register's Office, in Liber 36, Block Series of Conveyances, Section 8, page 393, on December 31, 1909.

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, not having been shown that this property is used by the company——

The Master: Well, I understand that objection runs to all of these.

Mr. O'Brien: Yes.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: Received in evidence.

Considered marked Complainant's Exhibit
258 No. 35.

Mr. Ransom: I offer in evidence deed of H. A. Jacot to the Consolidated Gas Company, covering part of Block 870, Section 3, the deed bearing date June 19, 1912, and recorded in the office of the Register of the County of New York on the 20th day of November, 1912, in Section 3, Liber 179, at page 173, this property being property of the site of the company's office building.

Mr. O'Brien: I make the same objection. 259
The Master: Same ruling.
Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 36.

Mr. Ransom: I offer in evidence deed of Harry A. Jacot, to the Consolidated Gas Company of New York, dated July 2, 1912, relative to land in Section 3, Block 870 on the Land Map of the City of New York, being part of the site of the general office building, this deed being recorded in the Office of the Register of the County of New York, on the 20th day of November, 1912, in Block Series of 260
Conveyances, Section 3, Liber 180, page 53.
Mr. O'Brien: I make the same objection.
The Master: Same ruling.
Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 37.

Mr. Ransom: I offer in evidence a deed of Harry Jacot to the Consolidated Gas Company of New York, dated June 5, 1912, relative to land in Section 3 of Block 870 on the Land Map of the City of New York, being part of the site of the general office building, this instrument being recorded in the Office of the Register of the County of New York 261
on the 20th day of November, 1912, in Block Series of Conveyances, Section 3, Liber 180, page 54.
Mr. O'Brien: I make the same objection.
The Master: Same ruling.
Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit 38.

262 Mr. Ransom: I offer in evidence the deed of Harry A. Jacot to the Consolidated Gas Company of New York, dated June 19, 1912, relative to land in Section 3, Block 870, on the Land Map of the City of New York, this instrument being recorded in the office of the Register of the County of New York on the 20th day of November, 1912, in Block Series of Conveyances, Section 3, Liber 179, page 174.

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit
263 39.

Mr. Ransom: I offer in evidence the deed of Caroline Rullman, to the Consolidated Gas Company of New York, relative to property in Section 11 of Block 3236 on the Land Map of the City of New York, deed bearing date the 10th day of March, 1910, and recorded in Liber 115, Block Series of Conveyances, Section 11, page 385, and indexed in Block 3236 on April 25, 1910, this being a part of the site of the so-called Kingsbridge Holder.

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

264 Considered marked Complainant's Exhibit 40.

Mr. Ransom: I offer in evidence deed of Caroline S. Riemer to the Consolidated Gas Company of New York, relative to property in Section 11, Block 3230 on the Land Map of the City of New York, being a part of the so-called Kingsbridge Holder, the deed bearing date the 6th day of July, 1912, and being recorded in the Office of the Register of

the County of New York in Liber 135, Block Series Conveyances, Section 11, page 92, and indexed in Block 3236 on July 19, 1912. 265

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 41.

Mr. Ransom: I offer in evidence the deed of the New Amsterdam Gas Company to the Consolidated Gas Company of New York, dated April 30, 1918, relative to land in Section 3, Block 989, on the Land Map of the City of New York, the deed bearing date April 30, 1918, and recorded in Liber 3061 of Conveyances, at page 145, indexed in Block 989 on July 10, 1918, the same being filed in the Office of the Register of the County of New York. 266

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 42.

Mr. Ransom: I offer in evidence a quit claim deed of Thomas J. McGuire and Anna, his wife, to the Consolidated Gas Company of New York, dated December 30, 1909, relating to property in Block 2108, Section 8 on the Land Map of the City of New York, the instrument being dated December 30, 1909, and recorded in the Office of the Register of the County of New York on the 31st day of December, 1909, in Block Series of Conveyances, Section 8, Liber 36, page 393. 267

Mr. Chambers: Didn't you already offer that in evidence?

Mr. Ransom: The property is covered by another

268 deed. This is a quit claim deed also on the same property.

Mr. O'Brien: I make the same objection.

The Master: The same ruling.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 43.

Mr. Ransom: If the Court please, that covers all of the deeds. I put them in in this form. I have a schedule which arranges the deeds by properties, which, of course this manner of presentation does not do. I am willing, for the purposes of convenience, purely as a summary, but not as probative,
269 to put in this schedule, which will make these deeds more readily intelligible, because each particular deed relates to a particular piece of property, as will be referred to during the trial.

The Master: Is there any objection to offering in evidence, for convenience, the paper entitled, "Consolidated Gas Company of New York, real property used in gas business, schedule of conveyances"?

Mr. Ransom: It is not offered as proof of anything therein contained.

Mr. Chambers: Strike out with a pen or pencil the heading.

The Master: Real property, as I understand it,
270 claimed to be used by the Consolidated Company.

Mr. Ransom: This is purely our claim. It is not offer as proof that it is so.

The Master: I do not see that it is objectionable

Mr. Chambers: Can't we give it another title?

The Master: We will take the title out. Just say, "Summary of Conveyances".

Mr. Ransom: All right.

The Master: "Consolidated Gas Company, Schedule of Conveyances". I have stricken out the

words, "real property used in gas business". Is 271
there any objection to it? It will be received as an exhibit in connection with the various papers, as a tabulation or statement.

Mr. Ransom: I think it would be convenient for every one concerned if that was spread on the record.

The Master: You mean in connection with the testimony, instead of as a separate exhibit?

Mr. Ransom: Yes, printed as a part of the record.

The Master: Instead of giving it a number?

Mr. Ransom: Yes.

The Master: Is that agreeable to everybody?

Mr. O'Brien: Subject to my objection as to the 272
deeds.

The Master: Oh, yes.

Mr. Ransom: I think perhaps in view of the situation as to these other things, where I have to produce original papers, that we might suspend at this time. I take it that counsel for the Commission will also be agreeable to producing the original or certified copies of documents on file with them under the public service laws, of which I will send them a list this afternoon.

Mr. Goldmark: I suggest that that be sent to the Secretary of the Commission.

The Master: Do you want a formal subpœna?

Mr. Goldmark: No. 273

The Master: You will produce anything that he wants?

Mr. Goldmark: If we have it.

Mr. Ransom: You will produce anything that I send a list of to the Secretary this afternoon?

Mr. Goldmark: Anything that we have.

The schedule of conveyances above referred to is as follows:

274 CONSOLIDATED GAS COMPANY OF NEW YORK

SCHEDULE OF CONVEYANCES.

Block 1642. Lots 32 and 33.

Northwest corner of 3rd Avenue and 114th Street. Office.

Harlem Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 49, on January 30th, 1885. Also Jacob A. Weil to Consolidated Gas Company of New York, January 7, 1893. Recorded in liber 12, Block Series Conveyances, Section 6, page 394, on January 9th, 1893.

275

Block 870. Lots 54, 56, 59, 60.

Southeast corner of Irving Place and 15th Street, site of Old General Office.

Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. Also Emma Wood to Consolidated Gas Company of New York, April 11th, 1885. Recorded in liber 1870 of Conveyances, page 146, on May 5th, 1885. Also Silas B. Brownell and wife to Consolidated Gas Company of New York, March 3rd, 1902. Recorded in liber 77, Block series Conveyances, Section 3, page 355, on March 3rd, 1902.

276

Block 239. Lots 1 and 5.

Northeast corner of Hester and Elizabeth Streets. Office and Meter Shop.

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Re-

corded in liber 1863 of Conveyances, page 22, on January 30th, 1885. 277

Block 985. Lot 7, (part)
17th to 18th Streets between Avenue B, to Avenue C. Street Department Yard.
Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885.

Block 982. Lot 13.
14th to 15th Streets west of Avenue C. 14th Street Works. 278
Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. Also judgment of Supreme Court, part 16. January 12th, 1917.

Block 989. Lot 1.
15th to 16th Streets east of Avenue C. 14th Street Works.
Manhattan Gas Light Company to Consolidated Gas Company of New York. November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885.

279

Block 991. Lot 1.
14th to 15th Streets, Avenue D to Thompkins St. 14th St. Works.
Manhattan Gas Light Company to Consolidated Gas Company of New York. November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. Also judgment of Supreme Court, Part 16. January 12, 1917.

280 Block 988. Lot 1.
14th to 15th Streets, Avenue C to Ave. D. 14th Street Works.
Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. Also judgment of Supreme Court, part 16. January 12, 1917.

Block 991. Lot 47.
Bulkhead on East River, 14th to 15th Streets. 14th Street Works.
281 Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. Also judgment of Supreme Court, part 16. January 12, 1917.

Block 951. Lot 35.
South side of 20th Street between Avenue A and 1st Avenue. Stable.
New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885.

282 Block 952. Lots 7 and 35.
20th to 21st Street west of Avenue A. 21st Street Works.
New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885.

Block 952. Lot 30. 283

20th to 21st Street west of Avenue A. 21st Street Works.

Benjamin Weede to Consolidated Gas Company of New York, March 17th, 1899. Recorded in liber 83, Block Series Conveyances, Section 3, page 320, on June 23rd, 1902.

Block 953. Lot 1.

21st to 22nd Streets. 1st Avenue to Avenue A. 21st Street works and garage.

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on 284
January 30th, 1885.

Block 979. Lot 1.

21st to 22nd Streets, Avenue A to Marginal Street. 21st Street Works.

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885.

Block 978. Lots 5 and 6.

20th to 21st Streets, Avenue A to Avenue B. 21st Street Works. 285

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885.

Block 1090. Lot 23.

North side of 42nd Street between 11th and 12th Avenues.

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884.

286 Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885.

Block 1089. Lot 1.

41st Street to 42nd Street 11th Avenue to Hudson River. 42nd Street Works.

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885.

Block 1107. Lot 7.

Bulkhead and Pier Hudson River,
287 41st to 42nd Streets. 42nd Street Works.

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885.

Block 1092. Part of Lot 7.

44th to 45th Streets between 11th and 12th Avenues. 44th Street Station.

Municipal Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884.
288 Recorded in liber 1863 of Conveyances, page 44, on January 30th, 1885. Also Robert Auld to Consolidated Gas Company of New York, May, 1888. Recorded in liber 2140 of Conveyances, page 269, on May 23rd, 1888.

Block 1093. Part of Lot 9.

45th to 46th Streets east of 12th Avenue. 44th Street Station.

Municipal Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884.

Recorded in liber 1863 of Conveyances, page 44, on January 30th, 1885. Also Edward Cooper and others, as executors of Peter Cooper, to Consolidated Gas Company of New York, April 30th, 1887. Recorded in liber 2059 of Conveyances, page 159, on May 11th, 1887. 289

Block 1457. Lot 6.

62nd to 63rd Streets between 1st Avenue and Avenue A. 63rd Street Station.

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885. 290

Block 1177. Lot 21.

65th to 66th Streets, west of West End Avenue. Shop and Street Department yard.

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885.

Block 1157. Lot 1.

65th to 66th Street, Amsterdam to West End Avenues. 65th Street Station. 291

Metropolitan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 33, on January 30th, 1885.

Block 1670. Lot 1.

98th to 99th Streets, 1st to 2nd Avenues. 99th Street Works.

Knickerbocker Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884.

292 Recorded in liber 1863 of Conveyances, page 46, o
January 30th, 1885.

Block 1692. Part of Lot 1.
98th to 99th Streets, 1st Avenue t
Marginal Street. 99th Stree
Works.

Knickerbocker Gas Light Company to Consolidate
Gas Company of New York, November 10th, 188
Recorded in liber 1863 of Conveyances, page 46, o
January 30th, 1885. Also Mayor, Aldermen an
Commonalty of the City of New York to Consol
dated Gas Company of New York, December 29t
1897. Recorded in liber 40, Block Series Convey
293 ances, page 312, on December 31, 1897.

Block 1682. Lot 11.
110th Street to 111th Street, wes
of 1st Avenue. 111th Street Sta
tion.

Harlem Gas Light Company to Consolidated Ga
Company of New York, November 10th, 1884. Re
corded in liber 1863 of Conveyances, page 49, o
January 30th, 1885.

Block 1682. Lot 8.
110th to 111th Street, west of 1s
Avenue. 111th Street Station.

294 Mary T. Constant, September 2nd, 1890. Recorde
in liber 2363 of Conveyances, page 71, on Octobe
1st, 1890.

Block 1704. Part of Lot 5.
110th to 111th Streets west of Pleas
ant Avenue.

Harlem Gas Light Company to Consolidated Ga
Company of New York, November 10th, 1884. Re
corded in liber 1863 of Conveyances, page 49, o
January 30th, 1885.

Block 1999. Lot 1.

132nd to 133rd Streets, east of 12th Avenue. 132nd Street Station. 295

John D. Crimmins to Consolidated Gas Company of New York, December 24th, 1892. Recorded in liber 13, Block Series of Conveyances, Section 7, page 4, on December 28th, 1892.

Block 985. Lots 19, 20, part of 7.

North side of East 17th Street between Avenue B and C.

Manhattan Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 27, on January 30th, 1885. 296

Block 952. Lot 29.

Northwest corner of Avenue A and 20th Street.

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885.

Block 987. Lots 37, 41, 42, 43, 51.

20th to 21st Streets, Avenue B to Marginal Street.

New York Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 22, on January 30th, 1885. 297

Block 1692. Part of Lot 1.

Southeast corner of 99th Street and 1st Avenue.

Knickerbocker Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 46, on January 30th, 1885.

298 Block 1683. Lot 18.
Northwest Corner of 1st Avenue and 111th Street.

Harlem Gas Light Company to Consolidated Gas Company of New York, November 10th, 1884. Recorded in liber 1863 of Conveyances, page 49, on January 30th, 1885. Also Guiseppe Molea and wife, to Consolidated Gas Company of New York, September 1st, 1905. Recorded in liber 108, Block Series of Conveyances, Section 6, page 149, on September 11th, 1905.

Block 1028. Lot 38.
299 South side of 57th Street between 7th Avenue and Broadway. Office Building.

Deed of Trustees of Central Presbyterian Church of the City of New York to Lawyers Realty Company, November 12th, 1915. Recorded in Liber 168, Block Series Conveyances, Section 4, page 237, on November 13th, 1915; Deed of Lawyers Realty Company to Consolidated Gas Company, July 20, 1916. Recorded in Liber 130, Block Series Conveyances, Section 4, page 29, on July 21, 1916.

Block 1998. Lots 50, 53, 54, 55, 56.
300 South side of 132nd Street between Broadway and 12th Avenue.

Standard Gas Light Company to Consolidated Gas Company of New York, December 31st, 1914. Recorded in Liber 175, Block Series Conveyances, Section 7, page 143, on January 14th, 1915.

Block 2583. Lot 360. 301

North side of 132nd Street. Locust Avenue to East River.

City Real Estate Company to Consolidated Gas Company of New York, July 22nd, 1910. Recorded in Liber 76, Block Series Conveyances, Section 10, page 81, on July 23rd, 1910.

Block 2108. Lot 23.

South side of 159th Street between Edgecombe and St. Nicholas Avenue.

Thomas J. McGuire and Ann McGuire to Consolidated Gas Company of New York, December 30th, 1909. Recorded in Liber 36, Block Series Conveyances, Section 8, page 393, on December 31st, 1909. 302

Block 3236. Lot 1.

Kingsbridge holder site. Fordham Road and Sedgwick Avenue.

Caroline Rullman to Consolidated Gas Company of New York, March 10th, 1910. Recorded in Liber 115, Block series Conveyances, Section 11, page 85, and indexed in Block No. 3236, on April 25th, 1910.

Also quit-claim deed, Caroline A. Riemer to Consolidated Gas Company of New York, July 6th, 1912. Recorded in Liber 135, Block Series Conveyances, Section 11, page 92, and indexed in Block No. 3236, on July 19, 1912. 303

Block 989. Part of Lot 1.

15th to 16th Streets between Avenues C and D.

New Amsterdam Gas Company to Consolidated Gas Company of New York. Recorded in Liber 3061, Conveyances, page 145, and indexed in Block No. 989, on July 10th, 1918.

304 Block 870. Lots 47, 49, 50, 53.
South east corner of Irving Plac
and 15th Street. Office Building
Harry A. Jacot to Consolidated Gas Company o
New York, June 19th, 1912. Recorded in Liber 17
Block Series Conveyances, Section 3, page 17
November 20th, 1912.

Harry A. Jacot to Consolidated Gas Compan
of New York, June 19th, 1912. Recorded in Libe
179, Block Series Conveyances, Section 3, page 17
November 20th, 1912.

Harry A. Jacot to Consolidated Gas Company o
New York, July 2, 1912. Recorded in Liber 18
305 Block Series Conveyances, Section 3, page 53, o
November 20th, 1912.

Harry A. Jacot to Consolidated Gas Company o
New York, June 5, 1912. Recorded in Liber 18
Block Series Conveyances, Section 3, page 54, o
November 20th, 1912.

Adjourned to Wednesday, July 23, 1919, at 9:1
A. M.

Last Complainant's Exhibit 43.

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CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 307

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 23, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton
MR. FARLEY, MR. HAYWARD, MR. GOLDMARK, MR. CHAMBERLAIN, of Counsel 308
for Public Service Commission.
MR. O'BRIEN, of Counsel for defendant Swann

Mr. Ransom: Shall I proceed?

The Master: Yes.

Mr. Ransom: I offer in evidence the Consolidation agreement, dated September 29, 1884, between the New York Gaslight Company, the Manhattan Gaslight Company, the Metropolitan Gaslight Company at the City of New York, the New York Mutual Gaslight Company, the Municipal Gaslight 309
Company of New York, the Knickerbocker Gaslight Company and the Harlem Gaslight Company, for the consolidation of the companies into the Consolidated Gas Company of New York. This was filed and recorded in the office of the New York County Clerk on November 10, 1884, and in the office of the Secretary of State also on November

10, 1884. I offer in evidence a duly certified copy, showing the official record.

The Master: Have the other side seen it?

Mr. Ransom: I may say that this document—I will state for convenience that it was printed in the record on the prior trial at original page 6597-C and print page 4819.

Mr. Chambers: Judge, may I ask you, have you an extra copy of the record on the prior trial?

Mr. Ransom: I have not any extra copy, no. The Attorney General has, I don't know how many. I have not any extra copies.

I had called for the production of the Commission records also on these documents, but the representative of the Commission is not here, so I am not able to supply the Commission's trial number.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial, and in particular because in this case we are not concerned with how much the complainant may have paid to other companies moneys on the consolidation referred to on said paper.

The Master: Well, incompetent in what sense, Mr. O'Brien?

Mr. O'Brien: I do not object to it as being a true copy of the original.

The Master: In other words, the proof of the document is adequate?

Mr. O'Brien: That is satisfactory so far as I can see now.

The Master: You object on the ground it is irrelevant and immaterial?

Mr. O'Brien: Yes.

The Master: And of course the contents of the paper is not binding on the parties in this suit?

Mr. O'Brien: Precisely.

The Master: The objection is overruled. 313

Mr. Chambers: I object to it on the ground it is incompetent, irrelevant and immaterial.

The Master: Now, what do you mean by incompetent, Mr. Chambers?

Mr. Chambers: I mean that it may be admissible as showing that the Consilidated Gas Company acquired these properties, but I object to it as proof—or as binding on these defendants concerning the consideration paid by the Consolidated Gas Company to these various other companies for their property.

The Master: Well, as I understand it, neither of you gentlemen question the authenticity of the do- 314
ument?

Mr. Chambers: Oh, no, it appears to be a certified copy.

The Master: All right.

Mr. Chambers: It appears to be certified in accordance with law. To that I make no objection. My objection only goes to the merits of the document.

The Master: Objection overruled. Exception allowed.

Mr. Chambers: Exception.

Mr. Hayward: Exception.

The Master: The paper is received in evidence as 315
Exhibit 44.

Mr. O'Brien: Exception.

Considered marked Complainant's Exhibit No. 44.

Mr. Ransom: I offer in evidence the certificate of reorganization of the New York Gaslight Company, dated May, 1871, pursuant to Chapter 480 of the Laws of 1867, amending Chapter 38 of the Laws of 1848, authorizing the formation of gaslight

316 companies. This certificate was filed in the Secretary of State's office on June 1, 1871; in the New York County Clerk's office on June 1, 1871. I will state for information that it was printed in the record of the prior case at page 1017, original printed page 1856. This is a duly certified copy showing the filing which I have indicated.

Mr. Chambers: Excuse me, you said 1017, and it is 7017.

Mr. Ransom: 7017.

Mr. O'Brien: I do not question that it is a true copy of the original document, but outside of that I object to it.

317 Mr. Chambers: I object to it, too, on the ground that it is—I do not question either the authenticity of the document, but I object to it on the ground that it is incompetent, the objection being based upon the fact that I am unable at this time to say whether they complied with Chapter 480 of the Laws of 1867.

Mr. Hayward: Same objection.

The Master: Objection is overruled. It may be received.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Mr. Hayward: Exception.

318 Considered marked Complainant's Exhibit No. 45.

Mr. Ransom: I offer in evidence grant from the Mayor, Aldermen and Commonalty of the City of New York, to the New York Gaslight Company, included in the Articles of Agreement made May 12, 1823, by the Mayor, Aldermen and Commonalty of the City of New York and the New York Gaslight Company. I state for information that this

appears in the record of the prior suit, original page 7383, printed page 5081. 319

Mr. O'Brien: I do not question the authenticity of this document, but I object to it otherwise as incompetent, irrelevant and immaterial.

The Master: Well, it is the same objection running through all these papers.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: If you will just say same objection.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Mr. Hayward: Exception. 320

The Master: It may be received.

Considered marked Complainant's Exhibit No. 46.

Mr. Ransom: I offer in evidence the certificate or a certified copy of the certificate of the Reorganization of the Manhattan Gaslight Company, dated September 6, 1867, pursuant to Chapter 480 of the Laws of 1867, amending Chapter 37 of the Laws of 1848, authorizing the formation of Gaslight Companies. This certificate of reorganization was filed in the office of the Secretary of State on December 31, 1867, and in the office of the New York County Clerk in December, 1867. This document appeared in the record of the prior suit original page 6982, printed page 4834. 321

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same objections, ruling and exceptions.

Considered marked Complainant's Exhibit No. 47.

322 Mr. Ransom: I offer in evidence the original grant from the Mayor, Aldermen and Commonalty of the City of New York to the Manhattan Gaslight Company, dated May 8, 1833. This appeared in the record of the prior suit, original page 7396, printed page 5089.

The Master: Same objections, ruling and exception.

Considered Marked Complainant's Exhibit No. 48.

Mr. Ransom: I offer in evidence the original grant of the Mayor, Aldermen and Commonalty of the City of New York to the Manhattan Gas Light
323 Company, dated May 5, 1848.

This document appeared in the record of the prior suit, original page 7389, printed page 5085.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: The same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 49.

Mr. Ransom: I offer in evidence the resolution of the Common Council of the City of New York,
324 adopted June 9, 1858, by the Council, and on June 10, 1858, by the Board of Aldermen, granting to the Metropolitan Gas Light Company of the City of New York authority to lay pipes, etc.

This document appears in the record of the prior suit, original page 7406, printed page 5094.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each defendant. 325

Considered marked Complainant's Exhibit No. 50.

Mr. Ransom: I offer in evidence the certificate of incorporation of The Municipal Oxygen Gas Company of the City of New York, dated May 29, 1874, under the Gas Light Companies' Act of 1848, for manufacturing and supplying gas for lighting the streets and public and private buildings in the city of New York, filed in the office of the Secretary of State of New York on June 1, 1874, and filed in the New York County Clerk's office on June 1, 1874.

This document was printed in the record of the prior suit, original page 7027, printed page 4862. 326

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 51.

Mr. Ransom: I offer in evidence a duly authenticated copy of an order changing the name of The Municipal Oxygen Gas Company of the City of New York to The Municipal Gas Light Company of New York, made at a special term of the New York County Supreme Court on June 5, 1876, and filed and recorded in the New York County Clerk's office on June 7, 1876. 327

This document was printed in the record of the prior suit, original page 7029, printed page 4863.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

328 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 52.

Mr. Ransom: I offer in evidence the resolution adopted by the Board of Aldermen of the City of New York on December 21, 1876, approved by the Mayor of the City of New York on December 23, 1876, granting permission to all incorporated Gas Light Companies to lay gas mains and pipes in the streets, etc., of the city of New York, for the purpose of supplying gas to the city and its inhabitants.

This document was printed in the record of the
329 prior suit, original page 7411, printed page 5115.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 53.

Mr. Ransom: I offer in evidence the grant by the city of New York to The Municipal Gas Light Company, dated March 22, 1877, prescribing conditions upon which the Municipal Gas Light Company may
330 place fixtures in the streets of the city of New York, under the terms of the resolution of December 21, 1876, and the assent of The Municipal Gas Light Company in acceptance of the conditions, dated March 22, 1877.

This document appeared in the record of the former trial, original page 7442, printed page 5116.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 331

Considered marked Complainant's Exhibit No. 54.

Mr. Ransom: I offer in evidence the certificate of increase of the capital stock of The Municipal Gas Light Company of New York, dated March 3, 1880, which was printed in the record of the prior suit, original page 7031, printed page 4864.

The Company's original of that is in the records of another proceeding which has been tried, and I find I haven't it here this morning. I have called upon the Public Service Commission to produce their copy, but although the records which we have here from the Commission, show the filing of it with the Commission, they do not seem to have produced the copy which they have of it. If counsel are willing to waive the actual production of it at this time, we can have it included in connection with the records as to The Municipal Gas Light Company. If counsel insist we will pass it by for the present. 332

The Master: What do counsel say about it?

Mr. O'Brien: It is in the Public Service Commission's files?

Mr. Ransom: Although the records show that it was filed, it is not here. 333

Mr. Goetz: I know it is there, because I saw it there. They have brought the book containing other papers, but have not brought that one.

The Master: I think it is fair to assume that the paper is there.

Mr. Ransom: I will get it from the Commission's files later and show it to Mr. O'Brien.

The Master: I imagine the object is to get these things in consecutive order.

334 Mr. O'Brien: Consider it as being put in here, and they will produce it at the next session.

The Master: It will be taken subject to the same objections and exceptions.

Paper considered as Complainant's Exhibit No. 55.

Mr. Ransom: Now, as to the Knickerbocker Gas Light Company, I offer in evidence the certificate of incorporation of the Knickerbocker Gas Light Company, dated June 24, 1876, under the Gas Light Companies' Act of 1848, for the manufacturing, supplying, vending and conducting of gas and doing all necessary things for the purpose of manu-
335 facturing and vending gas and lighting public and private buildings, streets, avenues and parks of the city of New York with the same.

This certificate was filed in the Secretary of State's office on July 10, 1876, and in the New York County Clerk's office on July 11, 1876.

This document was printed in the record of the prior suit, original page 7036, printed page 4867.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

336 Paper considered marked Complainant's Exhibit No. 56.

Mr. Ransom: I offer in evidence the certificate of incorporation of the Anthracite Gas Lighting and Heating Company, dated May 27, 1863.

This document was printed in the record of the prior suit, original page 7410; printed page 5097.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection. 337

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 57.

Mr. Ransom: I offer in evidence resolution of the Common Council of the City of New York, adopted June 18, 1863, and by the Board of Aldermen of the City of New York on June 22, 1863, granting to The Anthracite Gas Lighting and Heating Company of New York the right to lay pipes in the public streets.

Also a further resolution passed by the Board of Councilmen on May 18, 1865, and the Board of 338
Aldermen on May 24, 1865, relating to the same subject.

This document was printed in the record of the prior suit, original page 7407; printed page 5095.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 58.

Mr. Ransom: I offer in evidence certificate of in- 339
corporation of The Citizens Mutual Gas Company of New York, dated May 27, 1865.

This document was printed in the record of the prior suit, original page 7412, printed page 5098.

Mr. O'Brien: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling, exception to Mr. O'Brien and to Mr. Hayward.

Paper considered marked Complainant's Exhibit 59.

340 Mr. Ransom: I offer in evidence the deed dated May 27, 1865, from the Anthracite Gas Lighting & Heating Company of New York to The Citizens Mutual Gas Company of the City of New York, dated May 27, 1865, transferring rights granted to the former by The City of New York by the previous resolution. This was printed in the record of the prior suit, original page 7416, printed page 5101.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

341 Paper considered marked Complainant's Exhibit 60.

Mr. Ransom: I offer in evidence the Certificate of Incorporation of the Union Gaslight Company of the City of New York, dated October 26, 1871. This was printed in the record of the prior suit, original page 7418, printed page 5102.

Mr. O'Brien: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to Mr. O'Brien and to Mr. Hayward.

Considered marked Complainant's Exhibit 61.

342

Mr. Ransom: May the record show that each of these copies is being submitted to counsel for the defendants and looked over at the time.

I offer in evidence deed from The Citizens Mutual Gas Company of the City of New York to the Union Gaslight Company of New York, dated November 2, 1871, conveying the rights acquired by the former from the City of New York by the resolutions above mentioned.

This document was printed in the record of the 343
prior suit at original page 7421, printed page 5104.

The document which I have just handed to Mr. O'Brien is the original deed.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit 62.

Mr. Ransom: I offer in evidence the order of the Special Term of the New York County Supreme Court, made June 5, 1875, by the Hon. John R. 344
Brady, Justice, In the Matter of the People of the City of New York against the Union Gaslight Company of the City of New York, *et al*, appointing Charles Edgar Appleby, the receiver of the property, franchises and effects of the Union Gaslight Company.

This document was printed in the record of the prior suit, original page 7424, printed page 5105.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 345

Considered marked Complainant's Exhibit 63.

Mr. Ransom: I offer in evidence the order made in the same proceeding as above indicated at a Special Term of the New York County Supreme Court of July 24, 1876, by the Hon. T. R. Westerbrook, Justice, directing a sale by the Receiver of the

346 Union Gaslight Company of the property, rights, franchises, contracts, etc. of that company.

This was printed in the record of the prior suit, original page 7428, printed page 5108.

The document which I hand to Mr. O'Brien is a certified copy, but evidently also bears original signatures.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit

347 64.

Mr. Ransom: I offer in evidence the order made in the same proceeding at a Special Term of the New York County Supreme Court, by the Hon. Abraham R. Lawrence, Justice, on March 11, 1879, confirming the sale by the Receiver of the property, assets, effects, franchises and rights belonging to the Union Gaslight Company to Walter Osborn, Tilton E. Doolittle, Jared E. Redfield, Receivers of the Johnson Savings Bank of New Haven, Connecticut, and reciting due notice of the sale, and that the purchasers at such sale had duly assigned their purchase and bid to Clark Bell, and

348 that the Receiver had executed transfers of such property and assets to Clark Bell, and further ratifying and confirming the action of the receiver.

This document was printed in the record of the prior suit, original page 7432, printed page 5110.

This document is likewise a copy attested by the Clerk and evidently bearing original signatures.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 349

Considered marked Complainant's Exhibit 65.

Mr. Ransom: I offer in evidence the deed of Charles E. Appleby, Receiver of the Union Gas Light Company, to Clark Bell, dated August 10, 1876, transferring to the latter the property, rights and franchises of the Union Gas Light Company. This was printed in the record of the prior suit, original page 7434, print page 5111. The document which I submit to counsel is a certified copy.

Mr. O'Brien; Same objection.

Mr. Chambers: Same objection. 350

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 66.

Mr. Ransom: I offer in evidence the deed of Clark Bell to the Knickerbocker Gas Light Company, dated August 27, 1876, transferring to the latter the property and franchises acquired by Clark Bell from the Receiver of the Union Gas Light Company. This was printed in the record of the prior suit, original suit 7438, print page 5113. This document is an attested original. 351

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 67.

352 Mr. Ransom: I offer in evidence the affidavit and proof of publication of Section 3 of Chapter 944 of the Laws of 1871, dated May 20, 1878, the affidavit being made by William Foster, Jr. This was printed in the record of the prior suit, original page 7450, print page 5121.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 68.

358 Mr. Ransom: I offer in evidence the assignment from William R. Dyer, one of the grantees mentioned in the Act of 1871, to William Cauldwell, conveying the former's rights under the act, this assignment being dated July 31, 1871. This document was printed in the record of the prior suit, original page 7453, print page 5123.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit
354 No. 69.

Mr. Ransom: I offer the assignment from William Cauldwell as assignee of William R. Dyer, to C. S. Bushnell, Henry J. Davison and Gordon E. Waddell, dated December 29, 1871 transferring the rights obtained by Cauldwell from William R. Dyer under the last preceding instrument. This document appeared in the record of the prior suit as original page 7455, print page 5124. The doc

nent which I hand to counsel is an original, authen- 355
icated by Peter J. Dooling, Clerk.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 70.

Mr. Ransom: I offer in evidence the assignment from William P. Smith, one of the grantees mentioned in the Act of 1871, to Isaac P. Martin, under date of June 29, 1871, conveying the former's rights 356
under the Act. This document was printed in the record of the prior suit, original page 7457, print page 5125. The document submitted is an original authenticated by Peter J. Dooling, Clerk.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 71.

Mr. Ransom: I offer in evidence assignment from Isaac P. Martin to C. S. Bushnell, Henry J. Davi- 357
on and Gordon H. Waddell, dated November 27, 1871, transferring the interest obtained by Martin from William P. Smith under the last preceding instrument, together with the Power of Attorney attached to the assignment proper. This document was printed in the record of the prior suit, original page 7455, print page 5126. This document appears to be an original and is authenticated.

Mr. O'Brien: Same objection.

358 *Mr. Chambers: Same objection.*

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 72.

Mr. Ransom: I offer in evidence assignment from Edward Jones, one of the grantees mentioned in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the former's interest under the Act. This was printed in the record of the prior suit at original page 7463, print page 5128.

359 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 73.

Mr. Ransom: I offer in evidence the assignment from Shepherd F. Knapp, one of the grantees mentioned in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated

360 November 28, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7465, printed page 5130. This document likewise appears to be an original, authenticated by the Clerk of the County of New York.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objecti

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 361

Considered marked Complainant's Exhibit No. 74.

Mr. Ransom: I offer in evidence the assignment from William H. Bloom, one of the grantees under the Act of 1871, to Cornelius Corson, dated July 3, 1871, of the former's interest under the Act. This was printed in the record of the prior suit original page 7468, printed page 5131. This is an original authenticated by the Clerk of the County of New York.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection. 362

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 75.

Mr. Ransom: I offer in evidence the assignment from Cornelius Corson to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the interest acquired from William H. Bloom, under the last preceding instrument. This document was printed in the record of the prior suit at original page 7470, printed page 5132. It is an authenticated original. 363

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 76.

364 Mr. Ransom: I offer in evidence an assignment from Joel A. Fithian, one of the grantees mentioned in the Act of 1871, to Richard B. Connolly, dated July 6, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7472, print page 5134. The document is an authenticated original.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling. Exception to each of the defendants.

Considered marked Complainant's Exhibit
365 No. 77.

Mr. Ransom: I offer in evidence an assignment from Richard B. Connolly to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired from Joel A. Fithian under the last preceding instrument. This document was printed in the record of the prior suit, original page 7474, printed page 5135. I think I may say that except where otherwise noted, all of these assignments, of which there are a great number, which I submit to counsel are original authenticated by the Clerk of the County of New York.

366 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 78.

Mr. Ransom: I offer in evidence the assignment from Walter Smith, one of the grantees named in

the Act of 1871, dated November 28, 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7477, printed page 5136. 367

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 79.

Mr. Ransom: I offer in evidence the assignment from Joseph Murphy, one of the grantees named in the Act of 1871, to Forbes Holland, dated July 13, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7479, printed page 5138. 368

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 80.

Mr. Ransom: I offer in evidence assignment from Forbes Holland to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired from Joseph Murphy under the last preceding assignment. This document was printed in the record of the prior suit, original page 7481, printed page 7139. 369

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

370 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 81.

Mr. Ransom: I offer in evidence assignment from Edward Taylor, one of the grantees named in the Act of 1871, to William M. Tweed, Jr., dated July 3, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7484, printed page 5140.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

371 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit 82.

Mr. Ransom: I offer in evidence assignment from William M. Tweed, Jr., to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the interest acquired from Edward Taylor under the last preceding assignment. This document was printed in the record of the prior suit, original page 7486, printed page 5141.

Mr. O'Brien: Same objection.

372 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 83.

Mr. Ransom: I offer in evidence assignment from John E. Cronly, one of the grantees named in the Act of 1871, to Alexander Frear, dated July 18, 1871, of the former's interest under the Act. This

was printed in the record of the prior suit, original page 7488, printed page 5143. 373

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 84.

Mr. Ransom: I offer in evidence the assignment from George H. Hicks, one of the grantees named in the Act of 1871, to Alexander Frear, dated November 24, 1871, conveying the former's interest under the Act. This was printed in the record of 374
the prior suit, original page 7490, printed page 5144

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 85.

Mr. Ransom: I offer in evidence assignment from Alexander Frear to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 24, 1871, of the interest acquired from George H. 375
Hicks and John E. Cronly. This was printed in the record of the prior suit, original page 7492, printed page 5145.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 86.

376 Mr. Ransom: I offer in evidence the assignment from Joseph G. Jennings, one of the grantees named in the act of 1871, to Charles Banks, dated June 29, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7494, printed page 5146.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 87.

377 Mr. Ransom: I offer in evidence the assignment from Charles Banks to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired from Joseph G. Jennings under the last preceding assignment. This was printed in the record of the prior suit, original page 7496, printed page 5147.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit
378 No. 88.

Mr. Ransom: I offer in evidence Assignment from Henry Johnson, one of the grantees named in the Act of 1871, to William Hitchman, dated November 24, 1871, of the grantor's interest under the Act. This was printed in the record of the prior suit, original page 7499, printed page 5149.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection. 379

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 89.

Mr. Ransom: I offer in evidence the assignment from William Hitchman to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired of Henry Johnson under the last preceding assignment. This appears in the record of the prior suit, original page 7501, printed page 5150.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection. 380

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 90.

Mr. Ransom: I offer in evidence Assignment from Edward J. Shandley, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated December 4, 1871, of the grantor's interest under the Act. It was printed in the record of the prior suit, original page 7503, printed page 5151.

Mr. O'Brien: Same objection. 381

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 91.

Mr. Ransom: I offer in evidence Assignment from John C. Angell, one of the grantees named in

382 the Act of 1871, to James M. Sweeney, dated June 21, 1871, of the former's interest under the Act. This document appears in the record of the prior suit, original page 7506, printed page 5153.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 92.

Mr. Ransom: I offer in evidence Assignment from James M. Sweeney to C. S. Bushnell, Henry J.
383 Davison and Gordon H. Waddell, dated December 26, 1871, of the interest acquired from John C. Angell under the last preceding assignment, and also the power of attorney attached. This document appears in the record of the prior suit, original page 7507, printed page 5154.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 93.

384

Mr. Ransom: I offer in evidence the assignment from William Vail, one of the grantees named in the Act of 1871, to Thomas C. Fields, dated June 14, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7512, print page 1516.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 385

Considered marked Complainant's Exhibit No. 94.

Mr. Ransom: I offer in evidence assignment from Patrick Quinn, one of the grantees named in the Act of 1871, to Thomas C. Fields, dated June 14, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7514, print page 5157.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 386

Considered marked Complainant's Exhibit No. 95.

Mr. Ransom: I offer in evidence assignment from William H. Murphy, one of the grantees named in Chapter 944 of the Laws of 1871, to Thomas C. Fields, dated June 14, 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7516, print page 5159.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 387

Considered marked Complainant's Exhibit No. 96.

Mr. Ransom: I offer in evidence the assignment from William Higgins, one of the grantees named in the Act of 1871, to Thomas C. Fields, dated June 26, 1871, of the former's interest under the Act.

388 This document appears in the record of the prior suit, original page 7518, print page 5160.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 97.

Mr. Ransom: I offer in evidence assignment John H. Johnston, one of the grantees named in the Act of 1871, to Thomas C. Fields, dated June 14, 1871, of the former's interest under the act. This was
389 printed in the record of the prior suit, original page 7521, print page 5161.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 98.

Mr. Ransom: I offer in evidence the assignment from George Chivvis, one of the grantees named in the Act of 1871, to Thomas C. Fields, dated July 6,
390 1871, of the former's interest under the Act. This was printed in the record of the prior suit, original page 7523, print page 5163.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 99.

Mr. Ransom: I offer in evidence assignment from Thomas C. Fields to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 5, 1871, of the interest acquired from John H. Johnston, Patrick Quinn, George Chivvis, William Higgins, William H. Murphy and William Vail, under the previous assignments. It is printed in the record of the prior suit, original page 7525, print page 5164. 391

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 100. 392

Mr. Ransom: I offer in evidence assignment from Richard H. Vaughan, one of the grantees named in the Act of 1871, to George L. Loutrel, dated July 3, 1871, of the former's interest under the Act. This document is printed in the record of the prior suit, original page 7528, print page 5165.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 393

Considered marked Complainant's Exhibit No. 101.

Mr. Ransom: I offer in evidence assignment from George L. Loutrel to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired from Richard H. Vaughan under the last preceding assignment. This document is printed in the record of the prior suit, original page 7529, print page 5166.

394 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 102.

Mr. Ransom: I offer in evidence assignment from Andrew J. Smith, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the former's interest under the Act. This document is printed in the record of the prior suit,
395 original page 7532, print page 5168.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 103.

Mr. Ransom: I offer in evidence assignment from Henry A. Smith, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated December 5, 1871, of the former's interest under the Act, and also the
396 power of attorney thereto attached. This document is printed in the record of the prior suit, original page 7534, print page 5169.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 104.

Mr. Ransom: I offer in evidence assignment from Joseph Bell, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the former's interest under the Act. This document is printed in the record of the prior suit, original page 7538, print page 5171. 397

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 105. 398

Mr. Ransom: I offer in evidence assignment from John J. Walsh, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated December 30, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7540, print page 5173.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 106. 399

Mr. Ransom: I offer in evidence assignment from Delaven Peck, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated the 27th day of November, 1871, and acknowledged November 27, 1871, of the former's interest under the act. This document was printed in the record of the prior suit, original page 7543, print page 5174.

400 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainants Exhibit No. 107.

Mr. Ransom: I offer in evidence assignment from Thomas Y. Avery, one of the grantees named in the Act of 1871, to A. Oakey Hall, dated June 29, 1871, of the former's interest under the Act. This document was printed in the record of the former suit, original page 7545, print page 5175.

401 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 108.

Mr. Ransom: I offer in evidence assignment from A. Oakey Hall to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the interest acquired from Thomas Y. Avery under the last preceding assignment. This document was printed in the record of the prior suit.

402 original page 7547, print page 5177.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 109.

Mr. Ransom: I offer in evidence assignment from John Balmore, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the former's interest under the Act. This document was printed in the record of the former suit, original page 7549, print page 5178. 403

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 110. 404

Mr. Ransom: I offer in evidence assignment from James S. Turner, one of the grantees named in the Act of 1871, to William M. Tweed, dated July 3, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7551, print page 5179.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 111. 405

Mr. Ransom: I offer in evidence assignment from William M. Tweed to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the interest acquired from James S. Turner under the last preceding assignment. This document was printed in the record of the prior suit, original page 7553, print page 5180.

Mr. O'Brien: Same objection.

406 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 112.

Mr. Ransom: I offer in evidence assignment from William Johnston, one of the grantees named in the Act of 1871, to John Ryan, dated December 16, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7556, print page 5181.

407 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 113.

Mr. Ransom: I offer in evidence assignment from John Ryan to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated December 18, 1871, of the interest acquired from William Johnston under the last preceding assignment. This document was printed in the record of the prior suit

408 original page 7559, print page 5183.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 144.

Mr. Vilas: I offer in evidence assignment from Henry S. Murray, one of the grantees named in the Act of 1871, to Peter B. Sweeney, dated July 3, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7561, print page 5185. 409

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 115.

Mr. Vilas: I offer in evidence assignment from Peter B. Sweeney, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated December 1, 1871, of the interest acquired from Henry S. Murray under the last preceding assignment. This document was printed in the record of the prior suit, original page 7563, print page 5186. 410

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 116. 411

Mr. Vilas: I offer in evidence assignment from Peter H. E. Baxter, one of the grantees named in the Act of 1871, to Henry W. Genet, dated June 16, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7566, print page 5187.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

412 Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 117.

Mr. Vilas: I offer in evidence assignment from Henry W. Genet to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 28, 1871, of the interest acquired from Peter H. E. Baxter, under the last preceding assignment. This document was printed in the record of the prior suit, original page 7567, print page 5188.

Mr. O'Brien: Same objection.

413 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 118.

Mr. Vilas: I offer in evidence assignment from John Cox, one of the grantees named in Chapter 944 of the Laws of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the former's interest under that Act. This document was printed in the record of the prior suit, original page 7570, print page 5189.

414 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 119.

Mr. Vilas: I offer in evidence assignment from John J. Turner, one of the grantees named in the

Act of 1871, to William E. King, dated July 3, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7572, print page 5191. 415

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked as Complainant's Exhibit 120.

Mr. Vilas: I offer in evidence assignment from William E. King to James F. Pierce, dated July 18, 1871, of the interest acquired from John J. Turner under the last preceding assignment. This document was printed in the record of the prior suit, original page 7574, print page 5192. 416

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 121.

Mr. Vilas: I offer in evidence assignment from James F. Pierce to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the interest acquired from William E. King, under the last preceding assignment. This document was printed in the record of the prior suit, original page 7576, print page 5193. 417

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

418 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 122.

Mr. Vilas: I offer in evidence assignment from Edgar Brower, one of the grantees, named in the Act of 1871, to Charles E. Wilbour, dated July 3, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7578, print page 5194.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

419 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 123.

Mr. Vilas: I offer in evidence assignment from Charles E. Wilbour, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 27, 1871, of the interest acquired from Edgar Brower under the last preceding assignment. This document was printed in the record of the prior suit, original page 7580, print page 5195.

Mr. O'Brien: Same objection.

420 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 124.

Mr. Vilas: I offer in evidence assignment from Charles E. Loew, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 187

of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7583, print page 5197. 421

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 125.

Mr. Vilas: I offer in evidence assignment from Matthew T. Brennan, one of the grantees named in the Act of 1871, to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, dated November 25, 1871, of the former's interest under the Act. This document was printed in the record of the prior suit, original page 7587, print page 5198. 422

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 126.

Mr. Vilas: I offer in evidence resignation dated November 27, 1871, on the part of H. W. [illegible]net, Richard B. Connolly, Thomas C. Fields, William M. Tweed, Cornelius Corson, Charles E. Wilbour, Peter B. Sweeney, A. Oakey Hall and Henry Hilton, as Executive Committee provided in the third section of Chapter 944 of the Laws of 1871. This document was printed in the record of the prior suit, original page 7587, print page 5199. 423

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

424 Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 127.

Mr. Vilas: I offer in evidence instrument dated November 27, 1871, signed by Hugh Smith and James M. Sweeney, reciting that they have been duly elected pursuant to the third section of Chapter 944 of the Laws of 1871, as an Executive Committee as therein provided, and releasing, relinquishing, assigning and setting over to C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, all
425 and every their right, title and interest as grantees or assignees in and to the charter, franchise and authority granted by the said Act. This document was printed in United States Circuit Court record of Exhibits, pages 628-629.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 128.

Mr. Vilas: I offer in evidence assignment from
426 C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, to William Foster, Jr., dated February 14, 1874, of all and every their joint and several rights, title and interest as owned by intermediate assignments from Isaac P. Martin, William P. Smith, Edward Jones, Shepherd F. Knapp and William R. Dyer, or their assignees, as original grantees under the Act of 1871. This document was printed in the record of the prior suit, original page 7589, print page 5200.

Mr. O'Brien: Same objection. 427

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 129.

Mr. Vilas: I offer in evidence assignment from C. S. Bushnell, Henry J. Davison and Gordon H. Waddell, to Even F. Bacon dated February 14, 1874, of all the rights of the grantors acquired by intermediate assignments from Edward Taylor, Joseph Murphy, Walter Smith, Joel A. Fithian and William M. Bloom, or their assignees, under the 428
Act of 1871. This document is printed in the record of the prior suit, original page 7592, print page 5202.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 130.

Mr. Vilas: I offer in evidence assignment from Cornelius S. Bushnell, Henry J. Davison and 429
Gordon H. Waddell to James M. Townsend, dated February 14, 1874, of the interest of the grantors acquired by intermediate assignment from George H. Wicks, John E. Cronly, John C. Angell, Edward J. Shandley, Joseph G. Jennings, Henry Johnston, or their assigns, under the Act of 1871. This document was printed in the record of the prior suit, original page 7549, print page 5204.

Mr. O'Brien: Same objection.

430 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: The same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 131.

Mr. Vilas: I offer in evidence assignment from C. S. Bushnell, Henry J. Davison and Gordon H. Waddell to Samuel J. Young, dated February 14, 1874, of the interest of the grantors acquired by intermediate assignment from William Vail, William H. Murphy, Patrick Quinn, George Chivvis, John H. Johnston, William Higgins, or their as-
431 signees, under the Act of 1871. This document is printed in the record of the prior suit, original page 7597, print page 5205.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 132.

Mr. Vilas: I offer in evidence assignment from C. S. Bushnell, Henry J. Davison and Gordon H.
432 Waddell to Charles E. Appleby of all the interest of the grantors acquired by intermediate assignments from Andrew J. Smith, Henry A. Smith, Richard H. Vaughan, Joseph Bell, Delavan Peck, John J. Walsh, or their assigns, under the Act of 1871. This document was printed in the record of the prior suit, original page 7600, print page 5207.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection. 433

The Master: Same ruling and exception to each f the defendants.

Considered marked Complainant's Exhibit No. 133.

Mr. Vilas: I offer in evidence assignment from . S. Bushnell, Henry J. Davison and Gordon H. addell, to Paschal W. Turney, dated February , 1874, of the interest of the grantors acquired by ntermediate assignment from William Johnston otherwise called William Johnson), James S. urner, Thomas Y. Avery, John Balmore, Henry S. urray and Peter H. Baxter, Jr., or their assigns, nder the Act of 1871. This document was printed 434 the record of the prior suit, original page 7602, rint page 5208.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each f the defendants.

Considered marked Complainant's Exhibit No. 134.

Mr. Vilas: I offer in evidence assignment from . S. Bushnell, Henry J. Davison, and Gordon H. addell, to Henry H. Porter, dated February 14, 435 74, of the interest of the grantors acquired by ntermediate assignments from Matthew T. Bren- an, Charles E. Loew, Edgar Brower, John J. urner, and John Cox, or their assigns, under the ct of 1871. This document was printed in the ecord of the prior suit, original page 7605, print ge 5210.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

442 Mr. Vilas: I offer in evidence Assignment from Samuel J. Young to George Howes, dated December 5, 1876, of the interest acquired by the intermediate assignment from William Vail, William H. Murphy, Patrick Quinn, George Chivvis, John H. Johnston and William Higgins under the Act of 1871. This was printed in the record of the prior suit, original page 7622, printed page 5220.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

443 Considered marked Complainant's Exhibit 140.

Mr. Vilas: I offer in evidence Assignment from Charles E. Appleby to Tilton E. Doolittle, dated December 4, 1876, of the interest acquired by intermediate assignment from Andrew J. Smith, Henry A. Smith, Richard H. Vaughan, Joseph Bell, Delavan Peck and John J. Walsh, under the Act of 1871. This was printed in the record of the prior suit, original page 7624, printed page 6221.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

444 The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit 141.

Mr. Vilas: I offer in evidence Assignment from William Foster, Jr., James M. Townsend, Eben F. Bacon, Charles E. Appleby, Henry H. Porter and Samuel J. Young to Walter Osborn, dated December 5, 1876, of all the rights of the grantors ac-

quired as survivors of Paschal W. Turney, deceased, 445
under the provision of the agreement dated the 25th day of February, 1874, between the grantors and Paschal W. Turney and the Union Gas Light Company, it being recited that it is the intention of the assignment to vest in Walter Osborn all the right, title and interest of Paschal W. Turney as owner of certain grants and franchises from certain of the original grantees named in the Act of 1871, and vested in the assignors as survivors of Turney under the agreement of February 25, 1874, and by the instrument the survivors also elected to appoint Walter Osborn a member of the Executive Committee existing under section 3 of the Act of 1871. This was printed in the record of the prior 446
suit, original page 7627, printed page 5222.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 142.

Mr. Vilas: I offer in evidence Instrument dated December 5, 1876, from Charles E. Appleby, William Foster, Jr., James M. Townsend, Eben F. Bacon and Samuel J. Young, recited to be the sur- 447
viving members of the Executive Committee duly holding office under Section 3 of Chapter 944 of the Laws of 1871, relinquishing, assigning and setting over to Robert M. C. Graham, Tilton E. Doolittle, Jared E. Redfield, John Sickels, George Howes, Walter Osborn and Henry H. Porter, and their assigns, all the rights, powers and control which the subscribers to that instrument have acquired or can in any way exercise or have as such Executive

448 Committee. This was printed in the record of the prior suit, original page 7631, printed page 5225.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 143.

Mr. Vilas: I offer in evidence Instrument executed by the Union Gas Light Company, dated December 11, 1876, consenting that William Foster, Jr., James M. Townsend, Eben F. Bacon, Charles E. Appleby,
449 Henry H. Porter and Samuel J. Young, the assignees and owners of intermediate assignments from the original grantees of the charter, grant, franchise and authority granted by the State by the Act of 1871, the owners by right of survivorship of the rights, title and interest of Paschal W. Turney, deceased, may assign, transfer and set over to Robert M. C. Graham, Tilton E. Doolittle, Jared E. Redfield, John Sickels, George Howes, Walter Osborn and Henry H. Porter, all of the said interests, the consent being given under the provisions of a certain agreement of February 25, 1874, between William Foster, Jr., *et. al.* and The Union Gas
450 Light Company; and the instrument requesting Graham, Doolittle, Sickels, Howes, Osborn and whoever may be associated with them, to grant and delegate to the Knickerbocker Gas Light Company of the City of New York all the rights and privileges as agents and attorneys heretofore granted and delegated to the Union Gas Light Company, and also requesting Foster, Townsend, Bacon, Appleby, Porter and Young, surviving members of the Executive Committee under the Act, to elect Walter

Osborn a member of the Executive Committee to fill the vacancy caused by the death of Paschal W. Turney, and to assign to Osborn all the right, title and interest of Turney. This was printed in the record of the prior suit, original page 7632, printed page 5225. 451

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 144.

452

Mr. Vilas: I offer in evidence Instrument dated August 10, 1876, from Charles E. Appleby, receiver of the Union Gas Light Company to Clark Bell, of the interest of the Union Gas Light Company or the receiver, in a certain contract made by the Union Gas Light Company with William Foster, Jr., and certain other grantees of the grants made by the State of New York, known as Chapter 944 of the Laws of 1871, the contract being dated the 25th day of February, 1874, and all the right, title and interest of the company or the receiver in and to the grants. This was printed in the record of the prior suit, original page 7635, printed page 5227. 453

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 145.

454 Mr. Vilas: I offer in evidence Indenture dated December 11, 1876, between Robert M. C. Graham, Tilton E. Doolittle, Jared E. Redfield, John Sickels, George Howes, Walter Osborn and Henry H. Porter, with the Knickerbocker Gas Light Company, reciting the said act of the legislature and various assignments, the Company covenanting to perform all work, labor and services contemplated by the act for the beneficial exercise of the rights and privileges thereby granted. This was printed in the record of the prior suit, original page 7638, printed page 5229.

Mr. O'Brien: Same objection.

455 Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 146.

Mr. Vilas: I offer in evidence Consent of the Knickerbocker Gas Light Company, dated May 20, 1878, that Robert M. C. Graham, Tilton E. Doolittle, Jared E. Redfield, Walter Osborn and Henry H. Porter, five of the assignees and owners of the charter, grants, franchise, etc., under the act of 1871, assign to William Bayard Cutting, Robert
456 F. Cutting, N. Bayard Brown, O. P. C. Billings, and William W. Moir, all of the said interest, the consent being given under the provisions of the agreement of December 11, 1876, between the individuals named and the Knickerbocker Company. This was printed in the record of the prior suit, original page 7646, printed page 5233.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants. 457

Considered marked Complainant's Exhibit 147.

Mr. Vilas: I offer in evidence Consent signed by Jared E. Redfield, Tilton E. Doolittle, R. M. C. Graham, Walter Osborn and H. H. Porter, five of the members of the Executive Committee under the Act of 1871, releasing and assigning to William Bayard Cutting, Robert F. Cutting, M. Bayard Brown, O. P. C. Billings and William W. Moir and their assigns all the rights, powers and control which the assignors had or could exercise as such Executive Committee. This was printed in the 458
record of the prior suit, original page 7647, printed page 5234.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 148.

Mr. Vilas: I offer in evidence General Release executed by Walter Osborn, Tilton E. Doolittle and Jared E. Redfield, individually and as receivers 459
of the Townsend Savings Bank of New Haven, to the Knickerbocker Gas Light Company and its successors, dated May 20, 1878, of any claims which they may have against the company. This was printed in the record of the prior suit, original page 7648, printed page 5235.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

460 The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 149.

Mr. Vilas: I offer in evidence Consent, dated March 11, 1880, by the Knickerbocker Gaslight Company, that William Bayard Cutting, Robert F. Cutting, M. Bayard Brown, O. P. C. Billings, William W. Moir, John Sickels and George Howes, assignees and owners by intermediate assignments of the original charter, grant and franchise granted by the Act of 1871, transfer and set over to O. Ottendorfer, H. E. Gawtry, Henry Day, Philip Allen,
461 Charles G. Francklyn, Peter Gardner, and S. C. Thompson all of their interests, the consent being under a certain agreement dated December 11, 1876, between the individuals first named and the Knickerbocker Gaslight Company. This was printed in the record of the prior suit, original page 7650, printed page 5236.

Mr. O'Brien: Same objection

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

462 Considered marked Complainant's Exhibit 150.

Mr. Vilas: I offer in evidence instrument dated May 20, 1878, executed by Jared E. Redfield, relinquishing and assigning to William W. Moir, all his rights and interests as owner by intermediate assignments of George H. Wicks, John E. Cronly, John C. Angell, Edward J. Shandley, Joseph G. Jennings, and Henry Johnson, original grantees under the Act of 1871. This was printed

in the record of the prior suit, original page 7653, printed page 5238. 463

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 151.

Mr. Vilas: I offer in evidence instrument dated May 20, 1878, executed by Tilton E. Doolittle, relinquishing and assigning to Oliver P. C. Billings all his rights and interest by intermediate assignments from Andrew J. Smith, Henry A. Smith, Richard H. Vaughn, Joseph Bell, Delavan Beck and John J. Walsh under the Act of 1871. This was printed in the record of the prior suit, original page 7655, printed page 5239. 464

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 152.

Mr. Vilas: I offer in evidence instrument dated May 20, 1878, executed by Robert M. C. Graham, relinquishing and assigning to M. Bayard Brown, all his rights and interest by assignment from William Foster, Jr., and by intermediate assignments from Isaac P. Martin, William P. Smith, Edward Jones, Shepherd Knapp and William R. Dyer, grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7658, printed page 5240. 465

466 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit No. 153.

Mr. Vilas: I offer in evidence instrument dated May 18, 1878, and executed by Henry H. Porter, relinquishing and transferring to Robert F. Cutting, all his interest and title by intermediate assignment from John Cox, John J. Turner, Edgar Brower, Charles E. Loew and Matthew T. Brennan,
467 grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7660, printed page 5242.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit No. 154.

Mr. Vilas: I offer in evidence instrument dated May 20, 1878, and executed by Walter Osborn, re-
468 linquishing and assigning to William Bayard Cutting all his rights and interest as assignee of William Foster, Jr., James M. Townsend, Eben F. Bacon, Charles E. Appleby, Henry H. Porter and Samuel J. Young, the survivors of Paschal W. Turney, deceased, and of which Turney was the owner by intermediate assignments from Thomas Y. Avery, John Balmore, James S. Turner, William Johnston, Henry S. Murray and Peter H. E. Baxter, Jr., original grantees under the Act of 1871. This

was printed in the record of the prior suit, original page 7663, printed page 5243. 469

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 155.

Mr. Vilas: I offer in evidence Instrument dated March 8, 1880, and executed by William W. Moir, relinquishing and assigning to Charles G. Franck-lyn all his interest and rights by intermediate assignment from George H. Wicks, John E. Cronly, 470
John C. Angell, Edward J. Shandley, Joseph G. Jennings and Henry Johnson, original grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7664, printed page 5244.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 156.

471

Mr. Vilas: I offer in evidence Instrument dated March 9, 1880, and executed by Oliver P. C. Billings, relinquishing and assigning to Philip Allen all his rights and interest by intermediate assignments from Andrew J. Smith, Henry A. Smith, Richard H. Vaughn, Joseph Bell, Delavan Peck and John J. Walsh, original grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7667, printed page 5246.

472 Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit 157.

Mr. Vilas: I offer in evidence Instrument dated March 11, 1880, and executed by M. Bayard Brown, relinquishing and assigning to Henry Day all his right and interest by assignment from William Foster, Jr., and by intermediate assignments
473 from Isaac P. Martin, William P. Smith, Edward Jones, Shepherd F. Knapp and William R. Dyer, original grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7669, printed page 5247.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit No. 158.

Mr. Vilas: I offer in evidence Instrument dated
474 March 11, 1880, and executed by Robert F. Cutting, relinquishing and assigning to H. E. Gawtry, all his right and interest by intermediate assignments from John Cox, John J. Turner, Edgar Brower, Charles E. Loew and Mathew T. Brennan, original grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7671, printed page 5248.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

475

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit No. 159.

Mr. Vilas: I offer in evidence Instrument dated March 11, 1880, and executed by William Bayard Cutting, relinquishing and assigning to O. Ottendorfer all his rights and interests as assignee of William Foster, Jr., James M. Johnson, Eben F. Bacon, Charles E. Appleby, Henry H. Porter and Samuel J. Young, the survivors of Paschal W. Turney, deceased, of which Turney was owner of intermediate assignments from Thomas Avery, John Balmore, James S. Turner, William Johnson and Peter H. F. Baxter, Jr., original grantees under the Act of 1871. This was printed in the record of the prior suit, original page 7674, printed page 5250.

476

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exceptions to each of the defendants.

Considered marked Complainant's Exhibit No. 160.

477

Mr. Vilas: I offer in evidence instrument dated March 11, 1880, and executed by George Howes, relinquishing to S. C. Thompson and assigning all his right and interest by intermediate assignments from William Vail, William H. Murphy, Patrick Quinn, George Chivvis, John H. Johnston and William Higgins, original grantees under the Act of 1871. This document was printed in the record of

478 the prior suit, original number 7676, print page 5251.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 161.

Mr. Vilas: I offer in evidence instrument dated March 10, 1880, and executed by John Sickels, transferring and assigning to Peter Gardner all his interests and rights by intermediate assignment
479 from Edward Taylor, Joseph Murphy, Walter Smith, Joel A. Fithian and William H. Bloom, original grantees under the Act of 1871. This document was printed in the record of the prior suit, original page 7678, print page 5252.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 162.

480 Mr. Vilas: I offer in evidence resignation dated March 11, 1880, and executed by W. Bayard Cutting, M. Bayard Brown, R. Fulton Cutting, William W. Moir, Oliver P. C. Billings, John Sickels and George Howes, being members of the Executive Committee holding office under Section 3 of Chapter 944 of the Laws of 1871, releasing, relinquishing and assigning all the rights, powers and control which had been acquired by the assignors, or which they could in any way exercise

or have as such Executive Committee, to O. Ottendorfer, H. E. Gawtry, Phillip Allen, Charles G. Francklyn, Peter Gardner, S. C. Thompson and their assigns. This document is printed in the record of the prior suit, original page 7681, print page 5254. 481

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 163.

Mr. Vilas: I offer in evidence the certification of incorporation of The Harlem Gas Light Company, dated February 1, 1855, for manufacturing and supplying gas for lighting the streets and the public and private buildings and for other purposes, situated and being in all that part of the City and County of New York, lying north of the center line of 79th Street, in said City. Filed in the Secretary of State's Office ..... and in the New York County Clerk's office, February 2, 1855. This document was printed in the record of the prior suit, original page 7019, print page 4857. 482

Mr. O'Brien: Same objection. 483

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 164.

Mr. Ransom: We called on the Commission to produce the original of that.

484 Mr. Goetz: If it is on file there why don't they produce it.

Mr. Ransom: I will produce the original or a certified copy.

Mr. Hayward: If you will send up and ask for what you want, there is somebody there who will no doubt give it to you.

Mr. Ransom: We will substitute it the same as we did with the other one. We will produce a certified copy later. This document, however, which is now offered, is an official publication.

Mr. Chambers: Is it noted that Mr. Ransom agrees to substitute?

485 Mr. Ransom: I will agree to produce either from the office of the Secretary of State, or from our own record, or from the Public Service Commission, a duly authenticated copy in lieu of the one which is produced here from an official printed record.

Now, there is also a certificate of increase of the Capital Stock of The Harlem Gas Light Company, dated July 21, 1869, which was printed in the prior suit, original page 7021, print page 4858, which we will have likewise produced.

Exhibit marked Complainant's Exhibit No. 164*a*.

Mr. Vilas: I offer in evidence certificate of in-
486 crease of the Capital Stock of The Harlem Gas Light Company, dated July 21, 1869. This document is printed in the record of the prior suit, original page 7021, print page 4858.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 165.

Mr. Vilas: I offer in evidence Resolution of the 487
Mayor, Aldermen and Commonalty of the City of New York, granting to The Harlem Gas Light Company authority to lay conductors in the streets, etc., adopted March 26, 1855; also resolution of same purport adopted April 25, 1855. This document was printed in the record of the prior suit, original page 7401, print page 5092. This is a certified copy of each of the two resolutions referred to.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each 488
of the defendants.

Considered marked Complainant's Exhibit No. 166.

Mr. Vilas: I offer in evidence extract from the minutes of the special meeting of the stockholders of the Consolidated Gas Company of New York, held March 9, 1900, setting forth resolution authorizing an increase of the capital stock of the Company from $39,078,000 to $54,595,200 par value, and the use of the increase of capital stock ($15,517,200 par value) to redeem 4% debentures issued for the stock of the New York Gas and Electric Light, Heat and Power Company (aggregating $36,000,- 489
000 par value). This document was printed in the record of the prior suit, original page 7279, print page 5018.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 167.

490 Mr. Vilas: I offer in evidence Certificate of Increase of the Capital Stock of the Consolidated Gas Company of New York from $39,078,000 to $54,595,200 par value, dated March 9, 1900. Filed in the Secretary of State's office March 12, 1900, and in the New York County Clerk's office, March 13, 1900. This document was printed in the record of the prior suit, original pp. 7295, 7285, print pages 5027, 5022.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: The same ruling, and exception to
491 each of the defendants.

Marked Complainant's Exhibit No. 168.

Mr. Vilas: I offer in evidence Extract from the Minutes of a special meeting of the stockholders of the Consolidated Gas Company of New York, held July 16, 1900, setting forth resolution authorizing an increase of the capital stock of the Company from $54,592,200 par value to $80,000,000 par value for various general purposes. This document was printed in the record of the prior suit, original page 7286, print page 5022.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

492 Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 169.

Mr. Vilas: I offer in evidence Certificate of Increase of the Capital Stock of the Consolidated Gas Company from $54,595,200 par value to $80,000,000 par value, dated July 16, 1900. Filed in the Secre-

tary of State's office July 18, 1900, and in the New 493
York County Clerk's office, July 19, 1900. This document was printed in the record of the prior suit, original pages 7279, 7292, print pages 5019, 5026.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 170.

Mr. Vilas: I offer in evidence Extract from the Minutes of a Special Meeting of the stockholders of 494
the Consolidated Gas Company of New York, held June 2, 1904, setting forth a resolution authorizing an increase of the capital stock of the Company, from $80,000,000 par value to $100,000,000 par value, and $20,000,000 par value of coupon debentures convertible into the stock authorized as an increase, the proceeds to be used for various general purposes. This document was printed in the record of the prior suit, original page 7293, print page 5026.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection. 495

The Master: Same ruling, and exception to each of the defendants.

Considered marked Complainant's Exhibit No. 171.

Mr. Vilas: I offer in evidence Certificate of Increase of the Capital Stock of the Consolidated Gas Company of New York from $80,000,000 par value to $100,000,000 par value, dated June 2, 1904. Filed

496 in the Secretary of State's office, June 6, 1904, and in the New York County Clerk's office, June 7, 1904. This document was printed in the record of the prior suit, original pages 7387, 7391, print pages 5023, 5031.

The Master: Is that one document?

Mr. Vilas: They are under one cover.

Mr. O'Brien: In regard to that, I want to make a special objection, the same as the one I made yesterday when an attempt was made to put in here an order made by the Public Service Commission authorizing a bond issue. The part that the matter of capitalization has played in rate cases has been thoroughly discredited by the courts, and

497 I do not know any reason why there should be anything on this record or anything introduced into this case that bears upon capital stock issued or not issued by the complainant. It is not a measure of value in any sense.

Mr. Ransom: What are you objecting to?

Mr. O'Brien: I am objecting to a certified copy of the minutes directing and authorizing an increase of the capital stock.

Mr. Chambers: He is objecting to Exhibits 171 and 172, when they are marked.

The Master: I will take them. Objection overruled and exception to each of the defendants.

498 Mr. Chambers: We have an objection and exception to this anyhow.

Marked Complainant's Exhibit No. 172.

Mr. Ransom: I offer in evidence the Certificate of Increase of Capital Stock of the Consolidated Gas Company, dated May 26, 1914. This is a duly certified copy, showing its filing.

Mr. Chambers: Now, to this offer we object on the same grounds as we stated to the offer of the

order of the Public Service Commission in case No. 499
1823, which order of the Public Service Commission of the First District is dated December 1, 1914, authorizing the increase of the capital stock of the Consolidated Gas Company in the amount set forth in the paper now offered by Complainant.

Mr. Ransom: The order of the Commission is not now offered. What is offered is this Certificate of Increase.

Mr. Chambers: No, but I make the same objection as to the preceding offer.

Mr. Ransom: I withdrew it at the time it was offered yesterday. I have not renewed the offer of the order with respect to that matter.

Mr. Chambers: Then we will object to it, as incompetent, irrelevant and immaterial. 500

Mr. Ransom: But there really can be no question, I think, under the precedents of admissibility of proof of what the Company's financial situation is.

The Master: I thought I received an order and an amended order.

Mr. Ransom: That was on the uniform system of accounts.

The Master: I see.

Mr. Ransom: I am offering now as part of the proof of the corporate organization the authenticated certificate of increase of capital stock in 1911. 501

The Master: Isn't Mr. O'Brien right, that the mere capitalization of the company with an authorized capital is not a basis for fixing a rate?

Mr. Ransom: The mere capitalization of the company, of course, is not the basis, but it is one of the elements which may be taken into account. It is part of the necessary proof in a rate case. It has been received in every rate case that I have ever known of, and especially where——

502 Mr. O'Brien: Well, you have not known of very many, apparently.

Mr. Ransom: I have known of a great many. Especially where there is a Public Service Commission law which provides that securities may be authorized and issued under certain circumstances and on a certain basis.

Mr. O'Brien: Your Honor, as I have said before——

Mr. Ransom: May I finish?

Mr. O'Brien: I thought you had struck a period. A long hiatus, Mr. Stenographer, in the record.

Mr. Ransom: Yes, a long hiatus. The question of
503 the weight of the record is not now necessary for determination. I think it is clearly admissible. In fact the record would be deficient without it.

The Master: I will receive it.

Mr. O'Brien: I want to reiterate, your Honor, and would be glad to cite some authorities to you. The capitalization is thoroughly discredited. The Public Service Commission's Act is not in evidence here, and if we get off that track we never will have justice in a rate case. What the Public Service Commission did is no presumption that their judgment is correct. If we are going to use the acts of the Public Service Commission to measure the value of this company's property, we are going to
504 get far away from the regular beaten track of what is required in a rate case. I want to emphasize that; I thought I did yesterday.

The Master: I will receive it.

Mr. O'Brien: I am not one that feels that there is any sanctity given to a proposition of fact or of law by the fact that it has been O. K.'d by the Public Service Commission.

The Master: I will not attempt to pass on that now, but I will take it.

Mr. O'Brien: Exception. 505
Mr. Chambers: Exception.
Mr. Hayward: Exception.
The Master: I will take it.

Marked Complainant's Exhibit No. 173.

Mr. Ransom: I take it it is unnecessary to offer in evidence a general statute like the Public Service Commission's law. If there is we offer Chapter 48.

The Master: I do not think it is necessary.

Mr. Ransom: I offer the order made by Milo R. Maltbie, and certain other persons, comprising the Public Service Commission of the First District, on the first day of December, 1914, in case No. 1823, In the Matter of the Application of the Consolidated Gas Company of New York under Section 69 of the Public Service Commission law. 506

Mr. O'Brien: Same objection and exception.
Mr. Chambers: Same objection.
Mr. Hayward: Same objection.
The Master: Objection overruled and exception to each of the defendants.

Marked Complainant's Exhibit No. 174.

Mr. O'Brien: This appears to be the paper, your Honor, that you excluded yesterday.

The Master: It was withdrawn for the time being. 507

Mr. O'Brien: And I again renew my objection to it. I do not need to enter into any elaborate argument here upon the proposition as to the unreliability of taking orders made by the Public Service Commission from time to time as evidence of the value of this property.

The Master: My receiving the paper in evidence, Mr. O'Brien, does not mean to intimate at all that I believe it bears any weight or carries any weight

508 with it. I will take it for consideration, in the light of what you claim with reference to it.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Objection overruled, and exception to each of the defendants.

Marked Complainant's Exhibit No. 174.

Mr. Ransom: I call for the production of certain documents——

Mr. O'Brien: May I ask that we be furnished with copies of that resolution?

Mr. Ransom: I will have copies made.

I call for the production of certain documents
509 of the Public Service Commission. I do not know with respect to these papers in general that have been put in this morning, whether it is necessary to prove their filing before the Public Service Commission. The status of the record as to two or three of them, however, is such that we will have to, and as a preliminary to that I offer in evidence an order of the Commission in Case No. 2068, filing order, made on March 2, 1916, as to the filing by gas and electric corporations of franchise and corporate books, and the like. That is preliminary to the offer of the documents themselves. That shows the legal authority under which they are
510 required to be filed.

Mr. Hayward: Now, Judge Ransom——

Mr. O'Brien: If there is going to be a persistent effort made, your Honor——

The Master: Suppose you let Colonel Hayward say what he started to say when he got on his feet.

Mr. Hayward: With reference to the requests made, or demands made to produce stuff from the Public Service Commission, my understanding is that although I appear here as counsel for the Com

mission, you are going to take up directly, either 511
with the Secretary or somebody else, the matter of bringing the papers that you want.

Mr. Ransom: The matter was taken up with them and two papers were not brought here, and I am going to take up with the Secretary the matter of their production. There won't be any difficulty about that.

Mr. Hayward: So you do not want me to do anything about that?

Mr. Ransom: Not at all.

Mr. Hayward: Very well.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection. 512

Mr. Hayward: Same objection.

The Master: Objection overruled. Exception to each of the defendants.

Marked Complainant's Exhibit No. 175.

Mr. O'Brien: I am going to call attention to the dates of these orders, and I am going to ask your Honor's attention to this objection. If these orders were adopted by the Public Service Commission while Mr. Ransom was counsel for the Commission, I object to them being received.

Mr. Ransom: Well, they were not.

Mr. O'Brien: On the ground that he has no right under the law to represent the complainant in this 513
case if he was counsel for the Commission while those orders were adopted.

Mr. Ransom: This order was made in 1916, when I was not counsel for the Commission, and when at least several persons sitting on your side of the table were either members of the Commission or connected with it.

Mr. O'Brien: I am speaking now of the relation

514 of counsel to the Commission, and I call to your attention——

The Master: Mr. O'Brien, one moment. You have raised the question here that this order now being offered was made while Judge Ransom was counsel to the Commission.

Mr. O'Brien: I refer also to every order received in evidence.

The Master: There has been no order received in evidence later than March 16th that I know of.

Mr. O'Brien: Yes, there have.

Mr. Ransom: I think there was an amending order.

515 Mr. O'Brien: The order of the uniform system of accounts and the order amending the uniform system of accounts, and the order that was received as Exhibit No. 174. As I understand it—I have not a copy—but it was within the time Mr. Ransom was counsel to the Commission. Now, your Honor, this is a very serious matter and I am going to press it.

The Master: You have pressed it.

Mr. O'Brien: I am referring to the relations of counsel for the Complainant—his relation to the Public Service Commission as counsel at the time that these orders were adopted.

516 The Master: All right. Now, in the first place you are speaking now of a general order made by the Commission with reference to all gas companies, requiring a uniform accounting system. Is that correct?

Mr. O'Brien: That is one of the orders.

The Master: As to that order I should say that I do not see how that has any possible relation in this particular case or bears upon it.

Mr. O'Brien: It has been offered in evidence, and that would indicate it. You have received it in evi-

dence; if it had no bearing or relation to this case 517
it would not be in.

The Master: What I mean is, no particular relation to this case; it is a general order. The order which amended that order for a uniform system of accounts was likewise a general order, having no particular reference to this period. What was the next paper you had, Exhibit 174?

Mr. O'Brien: I refer to the several orders that have been admitted in evidence. The last one I recall is 174.

The Master: I want to locate whatever paper there was that was made while Judge Ransom was counsel.

518

Mr. Ransom: The amending order on the uniform system of accounts was made about six weeks after I became its counsel, I think.

The Master: Was there any other paper? I have disposed of that.

Mr. Ransom: The order made in Case 2330 for the filing of all the tariffs of the gas corporations was made during my——

The Master: That is a general order.

Mr. Ransom: That is a general order.

The Master: I am of the same opinion as to that.

Mr. O'Brien: It relates to the complainant, your Honor and includes the complainant, and they deemed it of sufficient importance to the complainant's case here to offer it in evidence, and you have deemed it admissible. 519

The Master: I overrule any objection that you have made or now make with reference to the propriety of Judge Ransom offering those orders, because he was counsel to the Commission at that time. Now, that brings us to the order now being offered, dated the 2nd of March, 1916, as to which Judge Ransom says he was not counsel for the

520 Commission at the time. So that that point you now raise has no application to this particular exhibit.

Mr. O'Brien: You are referring to Exhibit No. 174?

The Master: To the offer of a paper dated March 2, 1916, in Case No. 2068, of the Public Service Commission.

Mr. O'Brien: I call your attention to Exhibit 174. That is an order of the Commission.

Mr. Ransom: I was not then counsel to the Commission. I was on the bench at the time the order, Exhibit 174, was made.

521 The Master: That disposes of that. The order now offered is an order dated the 2nd of March, 1916, relating to the filing of gas and electric corporations' franchise and corporate books, records, etc. I will receive it.

Mr. O'Brien: That was during the incumbency of counsel for the——

The Master: No, it was not.

Mr. Ransom: It was not; it was while I was on the bench and you were in the Tenement House Department.

The Master: 1916?

Mr. Ransom: 1916.

522 I offer in evidence resolution adopted by the Board of Aldermen of the City of New York, January 5, 1853, and by the Board of Assistants, February 12, 1853, approved by the Mayor, February 17, 1853, granting permission to the Manhattan Gas Light Company to lay their service pipes beyond the line of 42nd Street northward. I offer in evidence a certified copy.

Mr. O'Brien: Same objection.

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants. 523

Marked Complainant's Exhibit No. 176.

Mr. Ransom: I offer in evidence resolution adopted by the Board of Aldermen of the City of New York, March 16, 1853, and by the Board of Assistants, April 7, 1853, and approved by the Mayor, April 8, 1853, granting permission to the Manhattan Gas Light Company to lay their street mains beyond the line of 42nd Street northward. This also is a certified copy, certified by P. J. Scully, the Clerk, and I hand it to counsel.

Mr. O'Brien: I will have it noted that we have not an opportunity to inspect these papers except in a cursory way. 524

The Master: If you require any more time to look at any paper and you call my attention to it, you shall have the time.

Mr. O'Brien: I did not want to delay, but there is no chance to critically examine these papers, and I do not know why counsel should interpolate into the records "which I show to counsel". You might add a photograph after a while.

The Master: If upon your future examination of any exhibit there is any point raised as to that, you can bring it to my attention.

Mr. O'Brien: Same objection. 525

Mr. Chambers: Same objection.

Mr. Hayward: Same objection.

The Master: Same ruling and exception to each of the defendants.

Marked Complainant's Exhibit No. 177.

Mr. Ransom: I will call Mr. Herbert W. Alrich.

Mr. Hayward: Just a minute. If the Master please, before the witness takes the stand, there is

526 a matter I want to ask the Master's indulgence in briefly. You will recall yesterday how very free, and I may say, very fresh, Mr. Ransom was in trying to tell me where I was on October 5, 1918.

The Master: Now, Mr. Hayward——

Mr. Hayward: This is a personal matter. Let me proceed, your Honor. I insist.

The Master: I won't have any language such as "fresh".

Mr. Hayward: I will retract that language—how free Mr. Ransom was in telling me where I was on October 5th.

The Master: I do not remember the discussion
527 at all.

Mr. Hayward: It is in the record. I want to say that my recollection in very clear on that date. I was not on the Public Service Commission. It was Mr. Ransom who was attached to the payroll of the Public Service Commission as counsel while I was abroad. Now, my faith in my own recollection has been somewhat affected since last night, when I come into court this morning and find proceedings alleged to have occurred printed in the press as having occurred here, which I have no notice of, I have not heard a word of, and although I thought I was present at every single hearing before the Master, and I still think so.

528 The Master: What do you refer to?

Mr. Hayward: I refer to the report in the public press, at least in the morning copy of *The New York Sun*, and I have not had time to look at the others. I do not know whether it is in the other papers or not. It is as to what Mr. Ransom states to the Master in reference to this case in an opening statement. It says: "Says 80¢ doesn't meet cost of gas. Consolidated has lost $6,750,000 in 18 months. Counsel tells Examiner. Long Hearing Opens.

Hayward points Out Quality is not Mentioned— Company will Amend Complaint. Hearings in the suit of the Consolidated Gas Company to cause the eighty cent gas law to be set aside as confiscatory were begun yesterday in the Federal Court offices in the Woolworth Building. The hearings will continue until September 15 before Abraham S. Gilbert, as special master by appointment of the Federal Court. 529

Attorney-General Newton and District Attorney Swann are the defendants. Corporation Counsel Burr is counsel for the District Attorney", etc., following with the names of all the others who appeared here.

The Master: Do you want this in the record? 530

Mr. Hayward: Yes, let it go in the record. I would like to have it on the record. It is everywhere else but on the record.

"William L. Ransom of counsel for the gas company outlined the situation which the gas company contends makes authorization to charge a higher rate than necessary."

I did not hear him outline that, and I thought he made an opening statement and you said you did not care to hear it.

"He explained that the Public Service Commission is without power to go to the relief of the Company in the absence of a court decree that the law is unconstitutional. This creates an anomalous situation. The commission was created to supervise public service corporations, so that they might operate in the public interest with a fair return to their investors. 531

"Mr. Ransom said that the decree of the United States Supreme Court which sustained the 80 cent

532 rate in 1909 did so only to the extent of ordering that a trial be had of operation at that rate.

"'The 80 cent rate does not yield the company a fair return, upon the property used by it in its business', Mr. Ransom said. 'The Company's loss during 1918 and the first six months of 1919, amounts to nearly $6,750,000'." He continued: "The continuous, dependable supply of gas to this Company's 500,000 consumers, day by day under all the varying conditions of weather and demand, has necessitated the development of a vast property whose value this Federal Court found fourteen years ago to be in excess of $55,000,000," etc., etc.—

533 a very carefully prepared statement here for the benefit of the Master.

Mr. Ransom said: "The fiscal history of this company for the past twelve years has been continuously under the scrutiny of the Public Service Commission."

Now, Mr. O'Brien has expressed, I think, the sentiments of Mr. Chambers and myself in regard to trying a lawsuit by the correspondence school method. I would like to express my opinion here and have the Master consider it, about the method of trying this lawsuit in the public papers of New York city.

We know, if the Master please, that the Consoli-

534 dated Gas Company has a very able and a very efficient press agent—my friend, Mr. Livingston, who is here. I commend him on his work, and compliment him on it. It has been efficient at all times, but at no time more so than when he can put the opening statement that never was made into the public papers, having the sanctity of having been made before the Master here. The public papers of New York I do not think are interested in what Judge Ransom says about the Consolidated Gas

Company outside of this Court room. If they 535
were, he has had three or four months in which to let off all of this steam about his client. The thing that I object to, is the complainant, with a professional staff of publicity agents, coming in here and cloaking themselves, with the Master sitting here in this Court room, and giving that out to the newspapers as something that has occurred in this Court room. I think it is a reprehensible thing. I think it is something that the Master, not only in his own behalf, but in behalf of the defendants here who are trying to try this case fairly and squarely, should ask for an explanation from him—, from Mr. Ransom. 536

The Master: Well, having had to deal with newspaper men, I think I understand the explanation without getting it.

Mr. Ransom: May I say a word?

The Master: Judge Ransom assumed that statement would be made.

Mr. Ransom: May I just say a word? I have not seen the newspaper article that Mr. Hayward refers to.

Mr. Hayward: Not since it was printed.

Mr. Ransom: Not since it was printed, nor before. I did not know that it had been given to any paper of the City of New York until last night. It should not have been given. There was a statement 537
prepared by me at the request of the officers of the Company, for such use as they saw fit to make of it. These statements which were read by Mr. Hayward I judge come from that statement, but so far as I am concerned, there was no disposition, and there will be none at any time in this trial—and I am glad that counsel for the defend-

538 ants have come to that point of view, that they will try this case here and none other.

The Master: Well, it simply confirms what was in my mind when I ruled that the making of the statement was unnecessary. The way to try a lawsuit is to offer the testimony into the record, and have the Court pass on the testimony, not to encumber the record with a lot of speeches by anybody. That is for the benefit of all counsel. Now, I am not going to permit the making of statements. It is a waste of time, and if they are made for the purpose of giving statements to the press, so much the more reason why they should not be made at
539 all. The press are represented here to report the evidence that goes in, and nothing else ought to be permitted to be stated.

Mr. Hayward: As having occurred here.

The Master: What is that?

Mr. Hayward: Nothing else ought to be allowed to be stated as having occurred here if it did not occur here.

The Master: No statements ought to be permitted, and as far as I am concerned, I am not going to permit any statements as to what people are going to prove or expect to prove. The way to do it is to offer the sworn testimony of witnesses.
540 I am not going to have it.

HERBERT W. ALRICH, called as a witness on be- 541
alf of the Complainant, being duly sworn, testifies
s follows:

IRECT-EXAMINATION BY MR. RANSOM:

Q. Mr. Alrich, where do you live?
A. 559 West 164th Street, though I am about
o remove from that address.
Q. What is your connection, if any, with the
onsolidated Gas Company?
A. I am an engineer.
Q. In connection with what department of work?
A. The Construction Department. 542
Q. How long have you been connected with the
onsolidated Gas Company?
A. Eighteen years.
Q. That is since 1901?
A. Yes, sir.
Q. Now, will you just briefly describe your
uties in the course of your employment by the
omplainant—what do you do?
A. You also mean what I have done?
Q. Let me first ask, what have been your differ-
nt positions of employment by the complainant?
A. I was first employed as draftsman on design- 543
g construction work, and shortly after that I
as put into the field to supervise construction
ork. I have done estimating, designing, superin-
nding work in the field, making post mortems on
e cost of work after it was done.
Q. Have you done estimating in advance, and
hecking up afterwards?
A. Yes, what we call post mortems.

544 By Mr. O'Brien:

Q. Who calls them post mortems?

A. Engineers.

Q. That is a technical term?

A. That is a technical term with engineers. You can safely use it and they will all know what you mean.

Q. Does this mean that you calculate losses after they have occurred?

The Master: Just a moment, Mr. O'Brien. I will not permit that, you will have to wait for the cross-examination.

545

By Mr. Ransom:

Q. During what period of time have you had supervisory duties with respect to construction?

A. I have had some supervisory duties almost from the beginning.

Q. In later years has your work been almost wholly supervisory?

A. Almost entirely, although the estimating and designing work that I do represents my individual efforts.

Q. That is related to stations and works and
516 other buildings and structures?

Mr. Hayward: If the Master please, this witness appears like a very intelligent witness and I do not think it is necessary for Judge Ransom to lead the witness step by step through this testimony, even if it is preliminary.

The Master: I will allow this question.

Mr. Ransom: I will withdraw the question

Q. Have your duties related to mains, or only to buildings or structures? 547

A. I have had some work in connection with mains where there have been special problems, but principally in connection with the construction of plants, buildings, such as office buildings, shop buildings and structures of that character; also the Astoria Tunnel; I did work in connection with that.

Q. Are you continuously and frequently in the various plants, and about various properties of the company?

A. Yes.

Q. And see what is going on there, and what is done there? 548

A. I don't know what you mean by asking me if I see what is going on. I see many things going on, yes; I see the manufacture of gas going on.

Q. You are familiar with the different buildings and structures?

A. I am.

Q. And the purposes for which they are used?

A. I am.

Q. Are you a member of any technical association?

A. I am. 549

Q. Of what?

Mr. O'Brien: I would like to ask here if counsel is about to qualify him as an expert?

Mr. Ransom: He surely is an expert.

Mr. O'Brien: I have asked a question. To say, "He surely is an expert", does not answer it.

The Master: What is the purpose of your

550 inquiry as to whether he means to qualify him or not?

Mr. O'Brien: Questions might be incompetent, irrelevant and immaterial, the question whether we will object to it has all to do with it, your Honor, if he is presenting the witness here purely on facts and not as an expert it may control our action, that is all. He might briefly state it to save our time and yours.

The Master: Do you desire to qualify him as an expert?

Mr. Ransom: Primarily he is testifying as to matters of fact. As to certain matters, they
551 may come into the category of expert testimony.

Mr. Chambers: You are offering him as to both?

Q. Of what technical association are you a member?

A. The American Society of Mechanical Engineers, of the American Gas Association, and of the Society of Gas Engineering of New York.

Q. Any others?

A. That is all.

Q. When did you first begin your contract with
552 the gas business of the complainant or any other company?

A. In 1901.

Q. That was the first?

A. Yes, sir.

Q. Just describe what you do with respect to these matters of which you have supervision, what reports you receive, what data comes to you, what reports you make, and the like?

A. Judge, that would carry a very wide range of 553
duties in connection with construction work, when studies are first being made upon work which it is being planned to execute. I would work on the studies of different plants that might be followed, and then I would participate in the final designing of the work, in the execution of the working drawings, in the drawing of the specifications for the work, in the negotiation of the contracts, in the comparison of the bids admitted, in the inspection and supervision of the work now being executed; and again, as I have stated before, make post mortems upon the cost of the work after it has been 554
completed. Then in cases where there are claims made by contractors for extra allowances I would have those under consideration and pass in many cases upon the correctness of such claims, the justness of them.

Q. Does this apply to a part or all or substantially all of the work along these lines done by the complainant?

A. Substantially all of the construction work done by the complainant.

Q. Substantially all of this work goes over your desk as construction engineer?

A. Yes, sir, I participate in it to some material 555
degree.

By Mr. O'Brien:

Q. Are you the chief engineer?

A. I am not.

Q. What is your title?

The Master: One moment—I will not allow this.

556 Mr. O'Brien: Your Honor, as we go along, of course, you can draw this rule tight, but as we go along many questions might be cleared up as we proceed.

The Master: I think we will get along better by going on tightly.

Mr. O'Brien: I think counsel would be glad to have the question asked.

The Master: No, I will not permit it.

Mr. O'Brien: I will object to the speeches then being made by the witness. If we can't clear these things up as we go, I will lodge my objection against the speech being made as
557 not responsive.

The Master: Any time there is any statement made that is not responsive, call attention to it.

By Mr. Ransom:

Q. What is your title in the company?

A. Assistant engineer of construction.

Q. Are you a member of the American Gas Institute?

The Master: He has already answered that.

558 Q. Do you hold any medals from that organization?

Mr. O'Brien: I object to that. The witness has already answered as to the organization to which he belongs, and he did not include the American Gas Institute.

The Master: Objection sustained.

Q. Have you familiarized yourself in the course of your duties with the land of the Company and

the descriptions thereof in the deeds, which were placed in evidence yesterday? 559

A. Yes, sir, I have, and am familiar with such deeds.

Q. Are you a civil engineer?

A. I am.

Q. Have you prepared any chart or diagrams of these different properties referred to in these deeds, so as to show in a diagrammatic form just what property is regarded by the Company as used in its gas business?

Mr. Hayward: I object to that. He cannot ask the question in that form, what property is regarded by the Company as used in its gas business. He can testify what property is used by this Company for making gas. I would be very glad to have that diagram. I think it might be easier for all of us, so we could vizualize these tracts, but I would like to have counsel ask definite questions of the witness. I think that is fair. 560

Q. Have you prepared certain charts or diagrams?

Mr. Chambers: Will you have that previous question read? 561

Mr. Ransom: I withdraw that question.

Q. Have you prepared certain charts and diagrams?

A. I have.

Q. Have you that here?

A. I have.

562 Q. Will you produce them?

A. I will.

Mr. O'Brien: I object to the offer if they are being offered.

Mr. Ransom: They are not offered.

A. I produce 18 sheets bearing on the cover the legend, "Maps showing land devoted to gas operations of the Consolidated Gas Company of New York, Dec. 31, 1918".

The Master: That is only the legend that you are referring to?

Mr. Ransom: Yes.

563 Q. By this legend you do not undertake to testify at this time that this land is land which is devoted to gas operation?

The Master: Or do you?

A. I don't know that I understand your question. The land is so employed.

Mr. Hayward: I move to strike that out.

Mr. Chambers: I ask that that be stricken out. That is the question for the Court to determine.

Mr. Ransom: I consent to the striking out.

564 Q. Have you prepared certain maps or diagrams?

A. I have.

Q. Which are here produced?

A. I have.

By the Master:

Q. How many sheets?

A. Eighteen.

Q. And they are fastened together with a cover? 565
A. Yes.

Q. And on the cover are the words you have already referred to, "Maps showing land devoted to gas operations of the Consolidated Gas Company, New York, Dec. 31, 1918."?

A. Yes, sir.

Mr. Ransom: I will consent that the title be stricken out and disregarded.

The Master: I am simply identifying the 18 sheets that are tacked together.

By Mr. Ransom:

566

Q. And on each of these sheets you have plotted and tinted properties described in the deeds?

A. I have.

Q. Embracing each of the properties covered by the various deeds put in evidence yesterday?

A. I have.

Q. Are there any instances in which deeds which were put in evidence yesterday show more land than you have included in these diagrams?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial. The witness is not qualified as a civil engineer.

567

The Master: Yes, he is. He says he is a civil engineer.

Mr. O'Brien: That does not qualify him, because he says he is, and I ask leave to examine him as to his qualifications.

The Master: If a man says he is a civil engineer, it means with me that he is a civil engineer.

568 Mr. O'Brien: If he says he is a civil engineer, he is going to be accepted as one.

The Master: Until the contrary is shown.

Mr. O'Brien: I ask leave to examine into the witness' qualifications.

Mr. Chambers: We have not had an opportunity yet to examine him preliminary as to his qualifications.

The Master: Nobody has asked me until this minute.

Mr. O'Brien: Previously, in order to save some time, I asked if he was being offered as an expert. That is the reason I arose.

569 Mr. Chambers: I do not understand that this is a civil engineering question.

The Master: If at any time you want the privilege of interrupting the examination by preliminary inquiry as to qualifications, or upon any other subject, I shall expect you and other counsel to rise and ask that privilege. I will not permit counsel sitting at the table to ask questions informally while the examination is being conducted in chief.

Mr. O'Brien: Your Honor, if your Honor is going to stick to the form of rising from our

570 seats, I will ask that the counsel be compelled to put their coats on.

The Master: It is not a question of rising from your seat; it is a question of conducting this proceeding in a proper way, and I am going so to conduct it.

Mr. O'Brien: I arose and asked counsel if he was presenting this witness as an expert.

The Master: Well, stop right there. Do you

want permission to inquire of this witness as to the truth of his statement that he is a civil engineer, now? 571

Mr. O'Brien: I want to examine him as an expert, if he is presented here to justify plans showing real estate.

The Master: If you want to inquire of this witness now as to the statement made by him that he is a civil engineer, I will permit you to do it, but only upon that point.

Mr. O'Brien: Do I understand your Honor that you will not permit me to examine into the qualifications of the witness to testify here and authenticate certain maps as correct drawings of property described in the deeds of the complainant? 572

The Master: I am going to permit you to find out whether he is a civil engineer here. If he is, I am assuming that he knows how to draw a map.

Mr. O'Brien: Are you going to assume that before I ask him if he knows how to survey property?

The Master: I say if he is a civil engineer, I am going to assume he can draw a map showing a piece of property as described in a deed. I can do it myself. 573

Mr. O'Brien: Perhaps I differ with you on the term, "civil engineer". Perhaps you mean a graduate engineer.

The Master: Find out what he is.

By Mr. O'Brien:

Q. Where did you first go to school, Mr. Alrich?

A. To the common schools in Wilmington, Delaware.

574 Q. And then where?

A. To an evening school in the same city, conducted by the Society of Friends.

Q. Did you have further educational experience?

A. I did.

Q. In what institution?

A. The Drexel Institute of Art, Science and Industry in the city of Philadelphia.

Q. And you graduated there?

A. I left there, having removed to New York the year before I would have graduated.

Q. How long were you there?

575 A. At the Institute?

Q. Yes.

A. Three years.

Q. Did you after that attend any other schools of engineering or science?

A. I did not. I have been a very diligent student.

Mr. O'Brien: I ask to strike that out.

The Master: Strike it out.

Q. What course, if any, did you take up at Drexel Institute?

A. Higher mathematics, principally.

Q. In what particular branches?

576 A. Of higher mathematics?

Q. Yes.

A. Going up into calculus.

Q. After that you came to New York and entered into the employment of what company or individual?

A. When I first came to New York I went with—it was at the time of the war with Spain, and I

went with the Garvin Machine Company, which had 577
contracts for an extension to the Springfield Armory in Springfield, Massachusetts.

Q. In what capacity did you work with them?

A. I was in charge of laying out some machinery that they were installing there?

Q. How old were you then, Mr. Alrich?

A. Well, that was in 1897. I am in my 48th year now. That was twenty-one years ago.

Q. You took charge of laying out machinery then?

A. The installation of some machinery.

Q. Then you correct your testimony when you said you had charge of laying out the machinery. 578

A. Laying out the location, the installation of it.

Q. What was your salary at that time?

A. At that time my best recollection is that I was getting $35 a week.

Mr. Ransom: I don't think the question of salary is important.

Q. How long were you in that employment?

A. Until 1901.

Q. And then you went into the employment of the complainant?

A. I did. 579

Q. In what capacity?

A. As I stated before, as a draftsman, draftsman and designer.

Q. Have you ever surveyed property?

A. I have participated in the survey of property.

Q. Did you ever actually work at civil engineering?

580 A. I have worked at civil engineering.

Q. Where?

A. For eighteen years and more.

Q. Where?

A. With the Consolidated Gas Company.

Q. With whom?

A. With the Consolidated Gas Company.

Q. With what civil engineer have you worked?

A. With such other civil engineers employed by the Company as participated in the same work on which I was employed.

581 By the Master:

Q. Did you study architecture at the Drexel Institute?

A. I did not.

By Mr. O'Brien:

Q. Did you ever study civil engineering?

A. I did.

Q. Where?

A. Personally studied it.

Q. But I mean at some institution. You didn't study, did you?

582 A. At the Drexel Institute of Art, Sciences and Industry.

Q. Did you study civil engineering there?

A. Some of the fundamentals of civil engineering.

Q. Didn't you state that your course there consisted of mathematics only?

A. I said principally of higher mathematics. 583

Q. Did you take up the actual course in engineering there?

A. The course there, Mr. O'Brien—they give the preliminaries, fundamentals of civil engineering in connection with higher mathematics, and then if a student cares to go into more advanced engineering studies, he may do so.

Q. You mean by the fundamentals, do you, the mathematics, algebra and geometry and calculus?

A. No, I mean in the fundamentals of engineering, applied mechanics, such as are necessary in studying the strength of materials.

Q. You mean the ordinary course in physics and 584 mechanics, do you?

A. No, I mean in studying the strength of materials, those studies that lead up to the higher study of the strength of materials.

Q. You mean that you took a course of that kind at the Drexel Institute?

A. I say I had a course in which the fundamentals of that were taught.

Q. What work did you study on that subject?

A. My recollection is that the book used, the principal book used was by one of the professors of Lehigh University, Professor Jacobi. 585

Q. Did you take a course in that line?

A. I studied his book, which is regarded as a primer on the study of the strength of materials. It is regarded as a standard work. I also studied Prof. Mansfield Merriman's book.

Q. Mr. Alrich, what experience have you had

586 since you went into the Gas Company's employ with surveying?

A. With surveying?

Q. Yes.

A. I worked with Charles S. Cowle, City Surveyor, in locating the property situated in Block 989, that is, between 15th and 16th streets and Avenues C and D, which was sold to the New Amsterdam Gas Company, and on which a 5,000,000 cubic feet holder was erected. I assisted Mr. Cowle in locating that property and in laying out the center of the holder.

Q. To what extent?

587 A. To what extent?

Q. To what extent did you assist him?

A. Why, I went around and held the rod for him, assisted him in taking the measurements, in getting the entries and in marking the points.

Q. Didn't he have assistants of his own?

A. Of his own? Why, there were two other men there cutting stakes, and doing work of that kind.

Q. Did you have any other experience in civil engineering besides that?

A. Why, yes, when I designed the foundations and structural steel work of the general office

588 building of the Consolidated Gas Company. That was civil engineering. Your trouble is you don't know what civil engineering is.

Mr. O'Brien: If your Honor please——

The Master: Strike that physically from the record.

Mr. O'Brien: I ask your Honor to reprimand the witness.

The Master: Do you want his statement to appear in the record? 589

Mr. O'Brien: Yes.

The Master: Very well, let it stand, as the witness answered.

Mr. O'Brien: I insist that your Honor shall reprimand the witness.

The Master: The witness is reprimanded.

By Mr. O'Brien:

Q. What other experience did you have in surveying property besides that to which you have made reference, in connection with Surveyor Cowle? 590

A. I individually, with an assistant, two assistants, made surveys afterwards of the Central Union Gas Company at 138th Street and Locust Avenue in the Bronx. That is one case I immediately recall. I have also with assistants, being in charge of the work, made surveys at the works of the New Amsterdam Gas Company at Ravenswood, Long Island; also at the works of the New York Mutual Gas Light Company at 12th Street and Avenue D.

Q. Were these men that you say did the surveying, were they graduates, with the degree of civil engineer? 591

A. I said that I did the surveying and they assisted me.

Q. Were they graduates of any institution in civil engineering?

A. I only recall one of the men that assisted me,

592 and he was a graduate of the College of the City of New York.

The Master: That college does not confer any degree of civil engineering.

Q. Does that include all your experience?

A. Oh, no. If I had enough time to write a list, I could provide you with a very long list.

Q. Of surveys that you actually made?

A. Of work of that character.

Q. I mean, did you actually use the machinery and the instruments and go out and make surveys?

593 A. I have.

Q. Did anybody pass on your work?

A. The Chief Engineer of the Company.

Q. He held a post mortem on your work?

A. It has surely come up in some connection afterwards.

Q. Has this work been just to verify plans and diagrams already made?

A. No, to lay out buildings that were to be erected.

Q. Do you mean to say in the case of the New Amsterdam purchase that they actually relied upon your survey?

594 A. In the case of the New Amsterdam purchase, no.

Q. They had a city engineer, didn't they?

A. They did not rely upon my work except so far as it was a part of what Charles S. Towle did.

Q. And he is a city surveyor?

A. He is a city surveyor, he made the map and signed his name to it.

Q. Now these plans here, are they copies of dia- 595
grams made by some city engineer?

A. No, I made them from the deed.

Q. You made them yourself from the deed?

A. Under my supervision.

Mr. O'Brien: If the offer is made I object to it on the ground that the witness is not qualified here as an engineer who might make accurate drawings. If they are copies of duly authenticated diagrams or surveys made by a city engineer that would be another question but if these are original surveys made by the witness they are entirely unreliable so far as 596
this case goes.

The Master: They are not offered as yet.

By Mr. Ransom:

Q. Mr. Alrich, these maps are not based on surveys? I mean the plotting of the property of the Consolidated Gas Company was made by you from the deeds?

A. From the deeds or other instruments.

By the Master: 597

Q. What do you mean by other instruments?

A. In the case, for instance, of Block 991, the dimensions given on that block are from the judgment of the Supreme Court, dated June 12, 1917.

Q. You mean you ascertained the lines, the metes and bounds from that judgment?

A. Yes.

598 By Mr. Ransom:

Q. You mean there are certain properties which are not covered by deeds, but which are covered by court judgments?

A. There are such cases. In the case— —

By the Master:

Q. As I understand it, Mr. Alrich, you took the instruments, whatever they may be, taking the description and plotted them out on the drawings?

A. Yes, sir.

599 Q. These drawings do not pretend to be the result of surveys made by you?

A. They do not.

Q. They only pretend to represent on a map or plan a description given in a written instrument?

A. That is all.

Q. A diagram, in other words, the description is diagrammed on these sheets?

A. That is correct.

Q. You say it was done under your supervision. What do you mean by that?

A. Some of our draftsmen, under my direction,
600 with drafting instruments, working from the deeds which I provided them with, and under my close observation and scrutiny, laid these out, whereupon, when the drawings were first finished, I checked them back to the deeds or other instruments and verified the dimensions that had been put on there.

By Mr. Ransom:

601

Q. Have you personally checked up, and are you personally familiar with tax map and the numbers as assigned to the Consolidated Gas Company's property, as on file in the City of New York?

A. I am.

Q. What were these maps before they were tinted, are these the City maps, copies of the City maps, so far as the lay-out of the streets is concerned, or are they a lay-out that you got from some other source?

A. They are the lay-out of the city streets as would appear on the tax map, or any other correct 602 map.

By Mr. O'Brien:

Q. As would appear? You mean by that as ought to appear?

The Master: Now you are doing what I said I would not permit you to do.

By Mr. Ransom:

Q. What do you mean by saying, "would ap- 603 pear"?

A. As do appear.

Q. And the block numbers, are those taken from what source?

A. From the tax maps.

Q. Or from the deeds?

604 A. Well, in every case they are not given in the deeds.

Q. But these are simply diagrams showing in a diagrammatic form the property or some of the property referred to in deeds or other instruments of title?

A. That is correct.

By Mr. O'Brien:

Q. When you refer to other instruments—if I may interpolate here——

605 The Master: No, I will not permit that.

Mr. O'Brien: Then it will be an endless cross-examination.

The Master: It is going to be an endless proceeding if I permit counsel to interrupt. Wait until there is an offer, then if I think the quesiton should be put I will allow it.

By Mr. Ransom:

Q. Are there any instances on these maps where more was shown by the deeds placed in evidence yesterday than is indicated on these maps in the 606 pink tint?

Mr. O'Brien: Your Honor, these maps are not yet in evidence, and counsel is asking a lot of questions, bringing in the pink tint. If he is going to make an offer of them I think it should be made, so I can object to it. I don't want a description of the whole thing put into the record before I have a chance to object.

The Master: Objection overruled. 607
Mr. O'Brien: Exception.

A. There are a number of maps where there is more property described in the deed than is shown tinted on the map.

By the Master:

Q. In other words, as to some of these sheets the land shown in tint is only part of the land described in the deed?

A. That is correct.

Q. But in every instance the deed covers either in whole or in excess of the property shown in the pink tint? 608

A. That is correct.

Mr. Ransom: I offer the eighteen sheets in evidence as diagrammatic charts showing in diagrammatic form the location and the recorded dimensions of these properties, and the like.

By Mr. O'Brien:

Q. Mr. Alrich, you referred to other instruments. Were there many instances where diagrams were made from other instruments? 609

A. Do I understand you to ask are there many of these where other instruments than deeds were used in making these diagrams?

Q. Yes.

A. Do you want me to tell you just how many?

610 Q. Yes, go ahead.

The Master: Let me ask this, if I may, Mr O'Brien.

Mr. O'Brien: Let me make my position clear. If counsel came in with a photograph or something that might show with accuracy the property claimed to be used by the company we would not have this controversy.

By the Master:

Q. Mr. Alrich, have these maps been made from
611 instruments that were not offered in evidence yesterday?

A. There are several cases where there are dimensions which rest upon instruments not offered in evidence.

Mr. O'Brien: I renew my objection.

Mr. Hayward: I think it is clear on the record that these maps show two things. They include in the pink colors ground for which no evidence has been put into the record whatever.

Mr. Ransom: That is not the case. We offered in evidence yesterday, if the Court will
612 recall, certain deeds and certain judgments. All our title papers are in. Some of them are not deeds.

By Mr. Ransom:

Q. Am I correct, Mr. Alrich, in the statement that there is no land shown here in the pink tint

which is not covered by a deed or other instrument of title offered in evidence yesterday? 613

A. That is correct.

Mr. O'Brien: He has answered that question and said no. Does the witness correct his statement just made that there are properties diagrammed on these maps that are covered by instruments not in evidence?

The Master: He didn't say that.

Mr. O'Brien: You will recall, your Honor, the answer that he made to your question.

By the Master: 614

Q. As I understand it, Mr. Alrich, you took the deeds and other instruments offered in evidence yesterday, and no others, for the purpose of showing the properties on these maps?

A. Yes.

Q. In showing dimensions, in some instances you got your information from other sources? A. That is correct.

Q. Am I correct in my statement that the deeds and other instruments offered in evidence yesterday covered all of this property?

A. That is correct. 615

Q. And that no property is shown here unless included in those deeds or instruments?

A. That is correct.

Q. And the only reference you made to instruments not offered in evidence was for the purpose of determining, in making these maps, a dimension from place to place?

A. That is correct.

616 By Mr. Ransom:

Q. In those cases where you say the dimensions are different, are those instances of where——

The Master: He didn't say the dimensions are different.

Q. In those instances where the dimensions shown on these maps are not the dimensions given in the title papers, deeds or judgments, are the dimensions here given based upon the fact that something less than the full property described in the deed or judgment is taken?

617 Mr. O'Brien: I object to that as calling for a conclusion.

The Witness: I would like to have that question read.

Q. Let me ask it in another form. You say there are certain parcels which are shown here in smaller dimensions than they are shown in the deeds and judgments?

A. That is correct—in deeds, not judgments.

Adjourned to Thursday, July 24, 1919, at 9:15 A. M.

618 Last Complainant's Exhibit 177.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 619

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 24, 1919.

Met pursuant to adjournment.

Present:—MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. FARLEY, MR. HAYWARD, MR. GOLDMARK, MR. CHAMBERLAIN, of Counsel 620
for Public Service Commission
MR. O'BRIEN, of Counsel for defendant Swann.

Mr. Ransom: Shall I proceed?

The Master: Yes, I am waiting for you.

Mr. Hayward: If the Master please, I would like to raise a point about one of the previous exhibits before I go ahead, if I may. You will recall that exhibit 13 had a clause in it—that was a tariff schedule filed by the company, that Mr. Ransom offered in evidence, and had this clause in it, that 621
that would be automatically modified by any rules or regulations promulgated by the various fuel administrators of the War Department, or anything like that. I called your Honor's attention at the time to the fact that if that exhibit was admitted at all there should be attached to it these other regulations or rulings that the company might subsequently rely on in connection with this case, and your Honor did not agree with me on that.

622 Now, bearing out that theory, and notwithstanding the fact that we were all not going to try this law suit in the newspapers, as stated yesterday, there is a statement in the press this morning, given out by Mr. Robert E. Livingston of the Consolidated Gas Company——

The Master: Do not tell me what is in the statement. I do not want to hear it.

Mr. Hayward: No, but it refers directly to the proposition I referred to in my objection, to an alleged requirement by the Federal Government which reduced their candle power below 22 during a certain period of time. So at this time I want to
623 renew my objection to that particular exhibit in any manner or form, but if it is considered by the Master as admissible, then I want to renew my motion, if it is that, or my insistance that the regulations which on the face of the exhibit show they may modify it, be attached to the exhibit.

The Master: I shall overrule that objection, if you now put it in the form of an objection, giving you an exception. I do not understand that by the filing of a tariff with the Public Service Commission they have any power to change the statutory requirement as to the quality of gas. Any evidence introduced here with reference to the quality of gas furnished will be considered, but I will not
624 allow statements put in the record made out of court.

Mr. Hayward: My idea is without those mandatory provisions which the exhibit itself shows were contemplated, that the exhibit in its present form is absolutely incompetent, it is not complete.

The Master: Well, it may be disregarded when I come to reach a conclusion in the case.

Mr. Ransom: Very likely I think all documents in the category referred to by counsel will be pr

duced in this case by counsel for the Commission 625
or counsel for the complainant, I presume.

The Master: Let me interrupt you a moment, Judge Ransom. The question under discussion when we adjourned last night was the receipt in evidence of eighteen sheets showing certain properties claimed to be owned by the Consolidated Gas Company. We had not reached the point, as I understand it of proof that the property shown on those maps was actually used by the gas company in the manufacture of gas.

Mr. Ransom: I, of course, cannot prove two things at a time.

The Master: One minute, you have not heard 626
what I have got to say. These maps, as I understand it, simply shows certain properties.

Mr. Ransom: Yes.

The Master: Described in certain instruments offered in evidence. In some instances the properties shown on the map were only part of the property described in the instruments. I do not want to spend a lot of time on something that I deem to be non-essential at this time. I am not going to permit any further discussion of the competency of this witness to have those maps drawn or to testify that the property shown in those deeds or others as indicated. I will receive those maps as showing 627
certain properties owned by the Consolidated Gas Company, or claimed to be owned by them, supported, as it is claimed, by the instruments offered in evidence. That is upon the ground that it does not take any great expertness to draw maps of that kind, and that they are simply for convenience. They will be received and marked in evidence as one exhibit.

628 Mr. Chambers: If your Honor please, he has not offered them. I would like to object to them.

The Master: They were offered.

Mr. Chambers: They were offered? I do not find it.

Mr. O'Brien: That is, your Honor, we are to take it that the exhibits are not offered so far as the dimensions shown on the diagrams are concerned?

The Master: They are taken so far as the dimensions are given, without any proof at this time as to the accuracy of those dimensions.

Mr. Ransom: I take it the situation in that respect will be this: These papers, these maps or
629 diagrams are not offered as proof that the properties thereon shown in the pink tint are used as proof of certain of the dimensions or most of the dimensions, until found to be supported by the deeds in evidence. There are certain cases where the tinted portion is less than the property shown by the deed, because certain property shown by the deed has been sold or a certain part of it has been taken by the City in condemnation proceedings, or a certain part of it is not devoted to gas use. In those cases, so far as the other dimensions are concerned, I take it if that becomes consequential we will have to show from other sources the dimensions.

630 Mr. O'Brien: Then I assume from what counsel says that these diagrams are offered as pictures or photographs.

Mr. Ransom: Diagrams.

Mr. O'Brien: Pictures or photographs, so to speak, of the property, without any attempt to have it part of the proof of title.

The Master: Mr. O'Brien, what I want to make clear is, I am taking them now for what they are

worth. They are not binding nor have they any probative force beyond what they purport to be. What is in my mind is this: This witness has demonstrated to the satisfaction of the Court that whether he is or is not qualified to testify about other things, he is qualified to say that those maps represent the property described in those deeds. I rule that that does not take any great degree of expertness, that is all. My recollection was that they had been offered in evidence. 631

Mr. Chambers: Yes, I see the offer up here. We have been going on so fast.

The Master: On what page?

Mr. Chambers: Page 203. I would like to place an objection on the record, and will your Honor rule on it, because you have ruled them in? 632

The Master: Yes.

Mr. Chambers: I would like to object to the maps on the ground that it is conceded they contain the dimensions which rest upon instruments not offered in evidence, and therefore the offer is premature. I will not object to the maps on my part when he offers in evidence everything upon which the maps are made. In other words, he now has dimensions on there which are contained in other instruments now offered in evidence. My understanding of the rule is when you offer a paper in evidence, like these maps, for the convenience of the Court, everything upon which the paper is based must be already in evidence. 633

The Master: The objection is noted and it is overruled. Note an exception to counsel for the various defendants—assuming that they all join in that objection.

Mr. Hayward: Yes.

Mr. O'Brien: Yes.

634 The Master: Now proceed.

Mr. Ransom: They may be marked.

Mr. Hayward: The title cover was not to go in, as I understand your Honor said?

The Master: The title cover is not part of the exhibit—simply the eighteen sheets. The title cover is simply for the purpose of identification of the eighteen sheets.

Mr. O'Brien: Will your Honor permit me, before final ruling on the matter to ask the witness a few questions which I intended to ask him yesterday before he questions the witness?

The Master: Well, upon what general lines?

635 Mr. O'Brien: Well, I want to find how much he had to do with these diagrams; whether they were done by him personally?

The Master: I won't permit any further examination on that, Mr. O'Brien, because it is not such a tremendiously essential part of this case as to require extended argument at this time. He has testified that men under his supervision prepared these maps, that he checked them up himself with these deeds. I won't permit any further examination because I do not think it necessary. I will allow you an exception to my ruling.

Mr. O'Brien: Well, the point is this: I am looking at all of these matters with the perspective of

636 the whole case before me, and of the difficulties that will come by carelessness in permitting testimony of this kind to go on the record.

The Master: Well, I appreciate your attitude, and I appreciate——

Mr. O'Brien: In other words, if the witness has not prepared them and is coming here as a proxy to testify on this and other matters, then at the very outset I am going to get into the detail of it and

find out what part he played in these matters. If he did not supervise those, if he does not know those are positive diagrams depicting the dimensions and descriptions shown in the instruments referred to, then I don't think they ought to be accepted. 637

The Master: My answer to that is, Mr. O'Brien, that if that case is at all at issue I am going to look at it myself. I can read a diagram and I know whether a diagram correctly portrays or properly describes a deed or other instrument, and there cannot be any mistake about it so far as I am concerned. I know. When I read a deed and look at the diagram I know whether they conform. Don't let us spend time unnecessarily. 638

The sheets offered were marked as one exhibit, Complainant's Exhibit No. 178 (consisting of eighteen sheets).

(Informal discussion ensued off the record.)

Mr. O'Brien: I want to note here on the record with reference to the statement just made by your Honor, that we are going to finish this case in two months, an objection to it. Your Honor don't know what testimony is going to be offered here, and I cannot see why the Referee——

The Master: Mr. O'Brien, one moment. I did not say this case was going to be finished in two months. I said I understood this case was to take several months. 639

Mr. O'Brien: I do not know anybody who is vested with the authority or even the vision to tell how long a case is going to take without the authority of counsel.

The Master: I understood from all you counsel that this was a very long case. Am I correct in that?

640 Mr. O'Brien: The record in the old case would indicate something of it, your Honor, and if it took six months to try a case in Albany where there are twenty-six thousand consumers, and six months to try another case where there were thirty-six thousand, your Honor may assume how long it will take to try this case.

The Master: Then my judgment is right, as to this being a very long case; is that right?

Mr. O'Brien: That is more like it.

The Master: But the more point and emphasis should be given to the statement I made before. Let us spend that time——

641 Mr. O'Brien: The point I am going to continually object to, your Honor, is this—that anybody, the Court or Referee, can state beforehand that a given case must be tried within a given time.

The Master: You can complain to the District Judge who made the order, not to me. Now proceed, Judge Ransom.

HERBERT W. ALRICH, resumes the stand:

DIRECT-EXAMINATION CONTINUED BY MR. RANSOM:

Q. Mr. Alrich, you said yesterday that in certain
642 instances these maps, Exhibit 178, did not show all of the land set forth in the deeds from which you prepared and by which you checked these maps?

The Master: And other title papers.

Mr. Ransom: And other title papers?

Q. I ask you to turn to the map of the 14th Street property, for which the deed is set forth in Exhibit 19, at folio 237 of the record——

Mr. Hayward: What sheet is that.

Mr. Ransom: The third sheet.

Q. (Continued.) And I direct your attention to Lot 26 of Block 989, Lots 26 and 50 in Block 991, and ask you why those shown by the deed are not now shown in the pink tint on the map? 643

A. Because they are now the property of the City of New York.

Q. Having been subsequently taken by the City?

A. That is correct.

Q. What is now known as Lot 16 of Block 989, which was covered by the deed, what has happened to that?

A. It was sold by the Consolidated Gas Company.

Mr. Chambers: There is no notation on there so we can tell where it is located. 644

The Witness: I can describe it.

Mr. Ransom: If you are willing the witness will describe just what has taken place there.

The Master: As I understand it, in the exhibit that Judge Ransom has just referred to, certain property known as Lot 26 in Block 989, and Lots 26 and 50 in Block 991 are included in the property conveyed, is that correct?

Mr. Ransom: That is correct.

The Master: That property does not show on this third sheet? 645

Mr. Ransom: That is correct.

The Master: The witness is now being asked why that property contained in those deeds does not appear upon this sheet.

By the Master:

Q. Will you tell us where Lot 26 in Block 989 was with reference to the property tinted on Sheet No. 3?

Mr. Chambers: That is it exactly.

646 A. Referring to the third sheet of Exhibit 178, Lot 26 of Block 989 comprises the land between 15th and 16th Streets, Avenue D and a line 191 feet west of Avenue D, and parallel thereto.

Q. Why is that property not shown on Sheet No. 3?

A. Because the title thereto was taken by the City of New York on January 31, 1907, for an extension to Willard Parker Hospital.

Q. Block 991, there were Lots 26 and 50?

A. Yes, sir.

Q. Where were they located in Block 991?

A. The block indicated on the drawing in partial
647 outline is between 15th and 16th Streets, Avenue D and the marginal street, having a trapezoidal form, is Block 991, Lot 26. Block 991, Lot 50, is the bulkhead opposite to the property just described.

By Mr. Ransom:

Q. And that also was taken by the City of New York in condemnation?

A. That is correct, the same date, January 31, 1907.

By the Master:

648 Q. As I understand it, old lot 26 is now shown in tint?

A. It is not shown in tint. It is between 15th and 16th Street. It is shown in partial outline on the exhibit and not tinted.

Q. In other words, Lot 26 was on the other side of Avenue D between 15th and 16th Streets, directly east of Lot 26 in Block 989?

A. That is correct.

By Mr. Ransom: 649

Q. Referring also to this third sheet of the exhibit, is there a part of Block 989, Lot 16, I believe it is, which is not shown as now used by the Consolidated Gas Company?

A. There is.

Q. Under what circumstances?

A. It was sold by the Gas Company to the New Amsterdam Gas Company.

Q. When?

A. The deed is dated May 20, 1905, is my best recollection. The year 1905 is correct.

Q. Generally on this map are there any variances, so far as boundaries with respect to street lines are concerned? The deeds show ownership generally to the middle of the street. Have you shown that, or have you shown by street lines as now laid out by the City of New York? 650

A. I have shown only within street lines.

Q. Within street lines?

A. Yes, sir.

Q. Turning now to the 17th and 18th Street properties, Street Department and storage yard. That is which sheet of the exhibit?

A. The fourth sheet.

Q. Property covered by the same deed, Exhibit 19, referred to, and admitted in evidence at folio 237 of the record. I direct your attention to lots 39 and 40 of Block 985, which was covered by that deed. They are not shown here in the pink tint, are they? A. They are not. 651

Q. Under what circumstances?

A. Because they are leased by the company.

Q. To whom?

652 A. The Carroll Box & Lumber Company.

Q. And not claimed to be used for any gas purpose?

A. They are not.

Q. As to the 21st Street property, Block 952, the fifth sheet of the exhibit. The deed is Exhibit 17, admitted in evidence at folio 231 of the record. I direct your attention to Lots 33 and 34 of Block 952, which are not shown in the pink tint, but are covered by the deed. What is the situation of that property?

A. It is occupied by two tenement houses, the property of the Consolidated Gas Company.

653 Q. But not used for gas purposes or claimed to be used?

A. Not claimed to be used. They are occupied by employees of the company.

By the Master:

Q. That is Lots 33 and 34?

A. Yes, sir.

Q. I see the last lot is 30, and then comes a space and then is 35. What were between there?

A. Only 33 and 34. The numbers run not in full sequence.

654 By Mr. Chambers:

Q. Are they that blank space there?

A. Yes, sir.

By Mr. Ransom:

Q. The numbers you are giving are the tax map numbers?

A. Yes, sir.

Q. Which are not always consecutive? 655
A. Nor in full sequence.
Q. Also as to the 21st Street station, Block 978, ich is covered by the same deed, Exhibit 17, I ect your attention to Lots 1, 2 and 3. What is status of that property owned by the Consol- ted Gas Company?
A. They, lots 1, 2 and 3, are occupied by three ement houses, the property of the Consolidated s Company.
Q. Occupied by tenements and not used for gas poses?
A. Occupied by employees of the company, with exception of the ground floor of the building on 656
1, that is to say, the northeast corner of 20th eet and Avenue A, which is the company's car- ter shop.
Q. And these lots 1, 2 and 3 are the blank space hin that block?
A. A part of the blank space.
Q. Now, I direct your attention to the West 42nd eet station property. That is the sixth sheet, ?
A. That is correct.
Q. Block 1070, Lot 5, which is covered by the l, Exhibit 18, at folio 235 and 36 of the record. 657
The Master: It is not shown on any sheet.
Q. Just where is it located on this map as it ds?
A. Block 1070 is located between 41st and 42nd eets, Tenth and Eleventh Avenues, and lies just of Block 1089 as shown by the sixth sheet of ibit 178.
Q. For what reason and under what circum-

658 stances is Lot 5 in Block 1070 not now show within the pink tinted dimensions on this map?

The Master: It is not shown on the map a all.

A. It was sold by the company.

By the Master:

Q. How long ago?

A. About 1916.

By Mr. Ransom:

Q. I call your attention to the 44th Street pro erty, Block 1092, which is covered by the de

659 Exhibit 22, admitted in evidence at folio 241 the record, Lot 28, 38, 38½ and 39 in Block 109 What is the status of that land?

A. Lot 28 is now vacant. Lots 38, 38½ and are occupied by tenement houses, the property the Consolidated Gas Company, but claimed being used in the company's business.

By the Master:

Q. Where do they lie with relation to Lot 7?

A. The lot 28 is on the north side of 44th Stre lying just east of Lot 7, being twenty-five feet wi

660 and one hundred feet five inches deep. Lot 38½ and 39 occupy the notch in the corner of t tinted area which is dimensioned on the exhibit being fifty feet wide and one hundred feet fi inches deep. There are three lots in fifty feet.

By Mr. Ransom:

Q. Now, is part of Lot No. 7 vacant, and at le temporarily leased by the company to some using it for non-gas purposes?

A. That is correct. 661

The Master: Part of Lot No. 7 in Block 1092, referred to in that same exhibit?

Mr. Ransom: Yes, sir.

Q. Now, also at 44th Street, Block No. 1093, covered by the same deed, Exhibit No. 22, a part of Lot 9 of Block 1093, what is the status of that property?

A. The portion of the property conveyed by the deed and lying west of the irregular diagonal line was taken by the City of New York in a condemnation proceeding, and a portion of Lot 9 lying east of the shaded portion is not now the property of the Consolidated Gas Company. 662

Q. When was it sold?

A. June 4, 1919.

Q. And the boundaries there shown by you as the metes and bounds of the pink tinted area then conform to the description in the condemnation proceedings and in the deed of sale?

A. That is correct. It represents the present ownership of the company in that lot.

Q. And in this Lot 7 you have excluded from Lot 7 the portions which you know to be vacant and leased to some one else?

A. I have. There is also in Block 1092 land 663 covered by the deed in evidence, which was taken by the City in a condemnation proceeding.

Q. Now, Block 1093, Lot 9. I direct your attention to the boundary which you have given for the west line of the pink tinted property? What has been done as to property west of the west line as there given.

664 A. It was taken by the City of New York in a condemnation proceeding.

Q. In what is known as the 44th to 46th Street dock improvement?

A. That is correct.

Q. From what source did you obtain the west line which you have there given and the shortened boundaries?

A. From the Commissioners' damage map.

Q. In the condemnation proceeding?

A. That is correct.

Q. Do you know whether that map has been approved by the Commissioners of the Sinking
665 Fund?

A. I do.

Q. Under what date?

A. My recollection is it was April 30, 1913.

Q. You have confirmed your boundaries to the action taken in that proceeding?

A. I have.

Q. And that is the source of the metes and bounds there given?

A. It is.

Q. I direct your attention to Block 1177, Lot 21, shown on the tenth sheet of Exhibit 178.

666 Mr. Hayward: If the Master please, the witness might number each of these sheets on the original copy.

Mr. Ransom: That will be done.

The Master: You may do that.

Q. Now, as to Lot 21 of Block 1177, what variance in the metes and bounds given by you are there, and from what source did you procure the

dimensions which you have given in the pink tinted area? 667

A. I got those dimensions from the tax map.

Q. Exhibit 18, at folio 235, shows the boundaries of that property as extending out into the river?

A. It does.

Q. And you have taken the tax map dimensions?

A. I have.

Q. And on this land, as on other land, you have personally compared these dimensions, these metes and bounds with the tax maps?

A. I have.

Q. I direct your attention to Block 1692, Lot 1. 668
That is on the eleventh sheet, is it?

A. That is correct.

Q. The old deed there likewise showed the property as extending out into the river, is that correct?

A. It did.

Q. Now, from what source did you get the metes and bounds of the property which was there set forth as used by the company?

A. From the tax map.

Mr. O'Brien: I will object to that question, your Honor. Counsel has included there, "as used by the company". 669

Mr. Ransom: Well, claimed to be used. I am only going into the company's claim.

Mr. O'Brien: I thought when we started on this, when this exhibit was put in, there was no attempt for the time being to show what property is used.

The Master: No, it is just claimed. It is for identifying property, that is all. As I under-

670 stand it, Mr. O'Brien, they expect to offer proof that this property which they are now talking about, is in fact used. What was there, a dock improvement there, or the establishment of a marginal street?

Q. What took place? Was there a suit by the City?

A. That is correct.

Q. With respect to the land outside of the boundaries there shown, or at least with respect to part of the water front title, is that correct?

A. That is correct.

671 Q. And then on December 29, 1897, the City conveyed certain of the property to the Gas Company?

A. That is correct.

Q. And that conforms to the tax map?

A. It does.

Q. You have taken the tax map dimensions?

A. I have.

Q. Now, Block 1704, shown on Sheet 12; what is the situation as to that?

A. Block 1704, lot 1, which is the avenue front between 110th and 111th street on the east side of First Avenue, 107 feet deep, was sold by the Company. In block 1683 two lots, namely lots 34 and

672 35, which are on the south side of 112th street, running south and connecting with lot 18, are not shown on the map, though they are the property of the Consolidated Gas Company.

Q. Now, as to block 1712, lot 2, what is the situation as to that?

A. The deed in evidence covers an area somewhat larger than that shown on the diagram.

Q. Area out in the water?

A. An area out in the water. The area shown on 673
the diagram.

By the Master:

Q. The water is east of the property shown?

A. It is. The area shown on the map is from dimensions furnished us by a city surveyor.

By Mr. Ransom:

Q. Do they conform to the tax map?

A. I do not know.

By the Master: 674

Q. What city surveyor furnished the dimensions?

A. My recollection is it was Charles S. Cowle. He did most of that work for us.

By Mr. Ransom:

Q. Will you check off by the tax map, and I will ask you regarding that later?

A. I will.

Q. Now, as to the West 132nd street property, block 1999, lot 11, which is covered by the deed Exhibit No. 30, received in evidence at folio 251, was this lot sold by the Company, and if so, when? 675

A. It was sold in 1917, as I recall.

Q. To whom?

A. To the Fifth Avenue Coach Company.

Q. What property have you next?

A. On the 16th sheet, block 2583.

Q. That is the Locust avenue property?

A. It is East 132nd street, Locust avenue to the East River.

676 Q. That is covered by the deed Exhibit No. 34, received in evidence at folio 255 of the record. I direct your attention to part of lot 360, in which you seem to have taken less than the deed boundaries. Will you state the situation there?

A. The enclave shown shaded was sold by the Company.

Q. In 1917?

A. That is correct.

Q. And is it now a separate lot number on the tax map?

A. It is, lot No. 450.

Q. Now, what is next?

677 A. The last sheet; the 18th sheet.

Q. That is block 3236, lot 1, in the Borough of the Bronx?

A. That is correct.

Q. Will you state from what source you obtained the slightly different boundaries which you have given, from those described in the deed?

A. From the city's Highway Improvement Map.

Q. At the time the Consolidated Company bought this property, had there been projected any improvement of either Sedgwick avenue or Fordham road, which involved a slight cutting down of the

678 area of this land on those two streets?

A. There had been.

Q. How much?

A. There was a projected cut of about ten feet along Sedgwick avenue.

Q. And subsequently was that enlarged at any other part?

A. Subsequently they widened Fordham road

down at the southeasterly side of the property and cut a slice off there. 679

Q. So that you have shown here as what the Company claims to be used by it in its gas business, the area covered by the deed, less what the city took off in the street widening proceedings?

A. I have.

Q. And your dimensions and metes and bounds there are obtained from what source?

A. From the city's Highway Improvement map.

Q. The damage maps at the time of that improvement?

A. Yes, sir.

Q. I call your attention to block 991, lot 1, on the third sheet. This property is covered by deed Exhibit No. 19, which was admitted in evidence at folio 237 of the record. Did you as to block 991, lot 1, obtain the metes and bounds which you have there given, from the deed? 680

A. I did not.

Q. From what source did you obtain them?

A. From a judgment of the Supreme Court, Judge Gavegan, dated June 12, 1917.

Q. That is, after this deed, Exhibit 19, there was a Court proceeding which related to certain of this property? 681

A. There was, in which case I was a witness.

Q. In that proceeding a decree was entered in which dimensions were given?

A. They were.

Q. And this judgment, referred to at folio 279 of the record, was the source of the metes and bounds which you have here?

682 A. It was.

The Master: Is that judgment in the record?

Mr. Ransom: The judgment is not in. I will now offer it.

I offer in evidence a duly certified copy of a judgment made in the Supreme Court for New York County, Trial Term, March 16, by Honorable Edward J. Gavegan, Justice, in the action of the Consolidated Gas Company of New York against the City of New York, on the 12th day of June, 1917.

The Master: Is there any objection?

Mr. Hayward: Same objection on our part
683 as to the other exhibits, as incompetent, irrelevant and immaterial.

The Master: Objection overruled, with an exception to all counsel.

Copy of judgment received in evidence and marked Complainant's Exhibit No. 179.

Q. I direct your attention to block 979, lot 1, and block 987, lots 3741, 3742, 3743 and 3751, referred to respectively at folios 284 and 296 of the record. Was there any condemnation proceedings affecting the metes and bounds of property covered by those deeds?

684 The Master: All of sheet 5, I think.

Mr. Ransom: All of sheet 5.

A. There was.

Q. Ending in when? Approximately 1902?

A. It was in Court in 1902.

Q. And that was a proceeding in which the city took the water front and opened a marginal street?

A. That is correct.

Q. The metes and bounds and dimensions which

you give for your pink tinted area were derived by you from what source? 685

A. The tax maps.

Q. And also from the damage maps at that time?

A. They were.

Q. The old deed ran out into the water and undertook to give certain riparian rights?

A. It did.

Q. And you have shown simply the dimensions from the tax map and the damage map?

A. Correct.

Q. Block 978, lot 5.

The Master: That is the same sheet.

A. 978? 686

Q. Are there any variances from the metes and bounds given in the deed, and if so what?

A. In respect to lot 5 alone, no.

Q. In respect to the frontage on that street?

A. For the entire frontage there is a variance.

Q. What is that situation?

A. I have shown the block as being 184 feet even, which is what it is on the city map. The sum of all the deeds, the sum of all the frontages given by all the deeds on that side, would make six inches more than the block.

Q. And you have conformed to the actuality, rather than the deed? 687

A. I have.

Q. Lastly, I direct your attention to block 1107, lot 7. The deed there ran to the westerly side of 13th avenue?

The Master: That is on the sixth sheet.

A. It did.

688 Q. From what other source than the deed have you obtained any of the dimensions there given?

A. From a map laying out 13th avenue, made for the city of New York about 1853, and also from a survey at said plan made for the company by George C. Hollerith of the Title Guaranty & Trust Company.

Q. There is a diagonal part of land on this map, and that is unreclaimed land under water?

A. That is correct. The unreclaimed land being shown shaded, with lines, instead of in the flat tint.

Q. That is, on this particular map the shaded lines represent unreclaimed land under water?

689 A. That is correct.

Q. And this deed, which is in evidence, does not give dimensions?

A. That is correct.

Q. So you have taken the dimensions from a city map in condemnation?

A. That is correct.

Q. With the check and aid of an independent survey by an engineer of the Title Guaranty & Trust Company?

A. That is correct.

Q. Have you prepared for convenience any map
690 of the Borough of Manhattan and adjacent territory, which shows the general layout of the plants and works and stations and offices of the Consolidated system?

A. I have.

Q. Will you produce it?

A. I produce such a map or diagram.

Q. Have you copies of it which I may give to counsel?

A. I have. (Producing same.) 691

Mr. Ransom: I do not know whether it is very consequential whether this is in evidence or not. I offer it in evidence simply as showing in a general way the location and layout. The names of the different places are those which are already in evidence, and if this map is in evidence it will link up to the testimony which will be later given. It is offered solely for convenience and not as proof of anything. I offer it in evidence.

The Master: Any objection?

Mr. Hayward: I have no objection to the offer in that form. 692

The Master: Mark it in evidence.

Mr. O'Brien: I would like to ask definitely why this is offered.

The Master: The statement was made as to the purpose of the offer. Did you hear it?

Mr. O'Brien: I heard it, yes.

The Master: All right. I will not permit any more inquiry about it. If you have any objection place it on the record.

Mr. O'Brien: I think we are entitled to know——

The Master: Now, I have told you, Mr. 693 O'Brien——

Mr. O'Brien: Well, I object.

The Master: Counsel has made a statement as to the purpose and extent of the offer. If you have any objection——

Mr. O'Brien: He has not stated what the purpose of it is.

694 The Master: You have heard what he said; have you an objection?

Mr. O'Brien: I have an objection.

The Master: State it, please.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial.

The Master: Objection overruled and exception to each of the defendants.

Marked Complainant's Exhibit No. 180.

Q. This map was prepared by you and under your direction?

A. It was.

695 Q. Do you know whether the lots of land described in the deed and the chart and shown on the tax maps of the City of New York have been identified from year to year, by the same lot numbers, or have you noticed changes in lot numbers?

A. There are changes in lot numbers.

The Master: You mean the City changes the lot numbers of the property from time to time on its tax map?

The Witness: I do.

Q. Have you made an examination of the lot numbers shown on the tax maps for 1919, identifying the plots shown on the charts in evidence as

696 Camplainant's Exhibit No. 178?

A. I have.

Q. Have you compiled a list showing the lot numbers which you used on these charts and the lot numbers for the same plots taken from the tax maps for 1919?

A. I have.

Q. Will you produce that list?

A. (Produces paper.)

Q. And is this the document, the list as compiled by you? 697

A. It is.

Q. Giving these lot numbers?

A. It is.

Q. With reference to each of the parcels of property?

A. Yes, sir.

Mr. Ransom: I offer in evidence this schedule showing the lot numbers as given in the Real Estate Map and the corresponding lot numbers from the official tax map for 1919.

Mr. Hayward: If your Honor please, I would like to have the record—— 698

The Master: Just a minute. You mean Exhibit 178?

Mr. Ransom: Exhibit 178, yes.

The Master: The paper that you are offering, as I understand it, Judge Ransom, is a schedule prepared by this witness giving first the block and lot numbers as they appear on Exhibit 178?

Mr. Ransom: Correct.

The Master: And the same property with the block and lot numbers as they appear on the real estate maps for the City of New York for the year 1919? 699

Mr. Ransom: 1919, yes—where they have been changed.

The Master: Where there is no change it appears in this that there has been no change and where there has been a change in identifying numbers it so appears.

700 By the Master:

Q. Was this schedule prepared, Mr. Alrich, as the result of your inspection of the City's tax maps?

A. I prepared it myself from an inspection of the tax maps.

Q. That is what I mean; you saw the tax maps?

A. I did.

Q. And you compared the lots with the tax map numbers?

A. I did.

Mr. Hayward: For what year?

The Master: For this year, 1919. Any ob-

701 jection, Colonel Hayward?

Mr. Hayward: Yes, it is objected to as hav-ing no probative value of any character.

Mr. O'Brien: I would like to know why it i offered.

Mr. Ransom: Merely for convenience o identity.

The Master: It is offered by the expert a to value, that is all, I suppose. There are ap parently very few changes. I see in one plac there where there were eight lot numbers an this year—oh, it is the same thing. It is 476

The Witness: 47 and 60.

702 The Master: I see. You have stated you objection, Colonel Hayward?

Mr. Chambers: I object to it as incompeten

Mr. O'Brien: Mr. Master, I do not see wh it is necessary to have expert testimony if the have the property in here diagrammed in a exhibit.

The Master: Any objection to this exhibi

Mr. O'Brien: I would like to know its pur- 703
pose. I may have an objection or may not.

The Master: I am not going to require counsel to state in every instance the purpose of the offer, and I won't in this instance. The paper was offered in evidence, and is stated to be a schedule. If you do not understand what the paper is I will let you see it, of course.

Mr. O'Brien: I have seen it.

The Master: I am not going to ask counsel to state the purpose of it. But you will state your objection.

Mr. O'Brien: Well, frequently——

The Master: I am not going to; I am not 704
going to spend the rest of my life listening to statements of purposes.

Mr. O'Brien: Frequently we will have to call upon him for statements of purposes.

The Master: Just now I am not going to permit any statement or any further discussion. Is there any objection.

Mr. O'Brien: Then I object to it. I object to it as incompetent, irrelevant and immaterial.

The Master: Objection overruled and an exception allowed. The statement will be received in evidence. 705

Mr. O'Brien: Exception.

Marked Complainant's Exhibit No. 181.

By Mr. Ransom:

Q. Mr. Alrich, referring to Complainant's Exhibit 178 and Lots 32 and 33 of Block 1642 thereon, the same being land at the northwest corner of Third Avenue and 114th Street, what buildings and

706 improvements, if any, are located on that land and what use is made of the land and improvements by the complainant?

The Master: Suppose we get one question at a time. What sheet is that?

Mr. Hayward: 14, I take it, but counsel never asks him what sheet it is.

Mr. Ransom: I have not had them marked yet, so I do not know.

Mr. Hayward: I suggest it is 14.

The Master: What sheet is it?

The Witness: 14.

The Master: Your first question was, what

707 is the character of the structure?

Mr. Ransom: What buildings, structures and improvements.

A. Lot 33 is occupied by a three-story brick building, and lot 32 is occupied by a building which is in part one-story high and in part two stories and in part three stories, and together these buildings comprise what is known as Branch 6, a district office of the commercial department.

Q. Of the complainant?

A. Of the Consolidated Gas Company.

Q. Just what is done there, if you know, on

708 those different floors?

A. On the ground floor on the building on the Third avenue front, there is a show room for the display and sale of appliances and lighting fixtures.

Mr. Hayward: Just a minute; I object to it as incompetent, irrelevant and immaterial at this time, without any other preliminary proof.

The Master: What is your point? 709

Mr. Hayward: I just want to put that into the record. You said you did not want anybody stating purposes here.

The Master: No; but you say it is incompetent, irrelevant and immaterial?

Mr. Hayward: Yes, I do, all three.

The Master: The question has to do with the use to which certain property is put. Why is it immaterial?

Mr. Hayward: I have made my objection.

The Master: No, but I am asking you now, as I have a right to do.

Mr. Hayward: Yes. 710

The Master: I am asking you why you do not think it is material.

Mr. Hayward: And I have a right to stand on my objection as I have made it.

The Master: No, you have not.

Mr. Hayward: You have the right to overrule the objection, and I have a right to take an exception.

The Master: It is the duty of the counsel when called upon by the Court, to advise the Court as to the precise point involved in the general objection. 711

Mr. Hayward: Well, my point is this:

This witness has not shown himself competent as knowing anything about the business of this corporation except the plans for the building. He has not shown himself competent, or has not claimed any knowledge as to the use of any of these properties in the public use, and is simply going to testify what

712 these different buildings are used for, as he has observed it, none of them being under his charge, and absolutely no knowledge on his part as to their use or usefulness by the Company.

The Master: Objection overruled and exception.

Q. Proceed.

The Master: You said it was used for the display and sale of appliances and lighting fixtures. Is that gas or electric?

The Witness: Gas.

The Master: Only?

713 The Witness: Gas only. The rear of that same building, that is on lot 33, and the ground floor on lot 32, is occupied by the clerks, the clerical staff and those who handle the consumers' accounts, where payment is made for bills rendered. The District Superintendent's office——

Mr. Hayward: May I ask what the witness means by payment is made for bills rendered?

The Witness: Consumers pay their gas bills at the windows there.

Mr. Hayward: I see.

714 The Witness: Moneys received for the consumers' gas bills.

The Master: Part of the cashier's department?

Mr. Hayward: Yes, the cashier's office.

The Witness: The upper floors of both buildings are occupied by the clerical staff connected with that branch. The basement of the

building is occupied by the heating plant and 715
by the toilets and washbasins.

Mr. Hayward: May I interpose to ask one question, if the Master please. The clerical staff, you say, occupies these buildings exclusively. Are they Consolidated Gas Company employees, or are there employees of other subsidiary or allied companies occupying those offices?

The Witness: Exclusively of the Consolidated Gas Company in the two buildings to which I am referring, Colonel.

Q. Is that all?

A. That is all. 716

Mr. O'Brien: Your Honor, I move that that portion of page 14 of Exhibit 178, marked lot 33 be excluded from the record on the ground that the witness' testimony indicates that it is used for a business extraneous to gasmaking and not part of this case.

The Master: Objection overruled and exception noted.

Mr. O'Brien: It is used for the display of gas appliances.

The Master: Objection overruled.

Mr. O'Brien: Exception. 717

Q. I direct your attention to the building, or to the land at the southeast corner of Irving place and 15th street on sheet 2 of Complainant's Exhibit 178, lots 59, 56, 54, 53, 50, 49 and 47. What improvements, if any, are located on this land, and what use is made of the land and improvements by the complainant?

718 A. The site is occupied by the general office building of the Consolidated Gas Company.

Q. The entire site?

A. The entire site is occupied by their building.

Mr. O'Brien: I was going to say that I do not want to be technical about making objections, your Honor, but we might as well have it understood that the witness won't be led.

The Master: I won't permit any leading on any essential point.

Mr. O'Brien: The last question was a leading question.

The Master: Yes, very frequently I am in
719 favor of leading questions.

Mr. O'Brien: Both question and answer are contrary to the fact; that is the reason I make the objection.

The Master: It is easily remedied. You did not describe the character of the building; what is it, frame, brick, one story or twenty stories?

Mr. O'Brien: Did I understand the witness to say the entire building was used by the complainant for an office?

Mr. Ransom: I asked him if the entire site
720 was covered by a building.

Mr. O'Brien: Well, he answered something different.

The Master: He says it is covered by the general office building. Tell us what kind of a building it is.

The Witness: The building is nineteen stories high and covers the entire site, and is constructed with a constructural steel frame with

stone ashlar and brick walls. It has concrete floors in part and in part terra cotta block, and it has tile roof. It is what is generally known as a fireproof building. 721

Mr. O'Brien: I object to that.

Mr. Chambers: I move to strike that out.

Mr. O'Brien: This witness has not qualified as a building expert. Of course, a general description of the building would be permissible.

The Master: I shall permit the statement to stand. I think we all know what is generally known as a fireproof building is steel, frame, with brick and stone or cement. 722

Mr. Chambers: I take an exception.

Mr. O'Brien: I likewise.

Mr. Hayward: Exception.

The Master: Mr. O'Brien and I really ought to know what a fireproof building is.

Mr. O'Brien: I have in mind that the witness will gradually unless he is nipped in the bud, develop into a building expert.

The Master: We will nip him when it comes to a vital point.

Mr. O'Brien: I do not like that post mortem stuff he referred to yesterday. 723

The Master: This nineteen-story building is known as the general office, in that right?

The Witness: That is correct.

The Master: Tell us how it is used from story to story, if you know?

Q. The building is occupied by——

Mr. O'Brien: I object to counsel making a statement.

724 Mr. Ransom: I am asking a question.

Mr. O'Brien: Well, the inflection of the voice indicated counsel was going to testify.

The Master: Let us see what the question is.

Q. Is the building occupied by any other companies or individuals other than the Consolidated Gas Company, in part?

A. It is.

Q. Do you know how the area of the building is apportioned among these various occupants?

A. I do not.

Q. Do you know how many floor feet of the building are occupied by the Consolidated Gas Com-
725 pany?

A. I know the floors. I do not know it in square feet.

Q. What about it in floors?

A. The Consolidated Gas Company occupies a portion of the first floor.

Q. What portion?

A. The center portion which I would describe as being about three-quarters of the ground area applying to the first floor. They occupy all of the basement.

Q. What is done in the basement?

726 A. In the basement is the heating plant, the vacuum cleaning machinery, the refrigerator plant, the vaults, the cold storage vault, the vault where the electrical connections are for the lighting and power in the building, the elevator pits and a show room for appliances, gas appliances only.

Mr. O'Brien: In the basement?

The Witness: In the basement, yes.

Q. Go on and describe what use is made of the other portions of the building? 727

Mr. Hayward: May I ask the witness a question at that point, your Honor?

The Master: One question?

Mr. Hayward: About the basement of this building. I want to ask him about the basement of the building.

The Master: I will allow you to ask the question.

Mr. Hayward: I thought you had left the basement and gone upstairs.

Mr. Ransom: I had temporarily hoped to.

Mr. Hayward: You have gone down in the cellar, haven't you? 728

Mr. Ransom: No, I hoped to go upstairs.

Mr. Hayward: I want to ask him, when he said there were other occupants of the building besides the company, and the basement was entirely used by the company, heating and all —I wanted to ask the witness if part of the basement was not used by the other tenants or for their benefit.

The Master: We can all see, of course, that it is used for the benefit of other tenants—the lighting and heating. 729

Mr. Hayward: Why does he say it is used exclusively by the gas company?

The Master: That is argumentative.

Q. The vault in the basement is the vault of the Consolidated Gas Company?

A. That is correct.

Q. The heating and storage and vacuum clean-

730 ing and similar facilities are maintained by the Consolidated Gas Company?

A. They are.

Q. So far as portions of the building which are occupied by other tenants are concerned, they, of course, are operated in part for the benefit of those other tenants?

A. That is correct.

Mr. Hayward: If the Master please, you may not consider this vital, but I do—to have the counsel stand up here and carefully state the answer for the witness and let the witness say it is, yes, it is, that is right. It is obviously
731 unfair. Judge Ransom is not testifying here. If the Master will let the record be read, the last few questions, I think it will be clear that counsel should be admonished. We do not want to get up here and act like a lot of petti-foggers.

The Master: I remember them perfectly. I do not think it is at all vital. If it had not been for your suggestions I do not think the questions would have been asked at all.

Mr. Hayward: I was asking the witness for information and not Judge Ransom, that is the
732 difference.

The Master: I do not think the inquiry is very important.

Mr. Hayward: I think it is very important.

The Master: We apparently disagree. I do not think so.

Mr. Hayward: And if I think it is important, if the Master please, I have a right to have the ordinary, simplest rules of evidence applied to

the interrogation of this witness. Isn't that so? 733

The Master: I have a firm notion about this much-abused leading rule. I am in accord with the rule that witnesses should not be led upon any vital question, but should they have indicated to them the answer upon a vital question, where there may be some reasonable doubt about it; but I have no patience with the common practice of counsel objecting to matters that are leading in questions purely formal or that I think are to a great extent purely formal. At any point of this case where the question is one of real merit and real dispute, one where it would be important where the witness be not told what the answer is that the counsel desires, I am going to protect counsel. 734

Mr. Hayward: And you do not think the use to which the basement of this great building is put, is important in this case?

The Master: Yes, I do; but I do not think it is particularly vital when the witness is asked whether, of course, these heating and other appliances in the building are used for other people, when it is apparent that is a fact. Proceed. Exception to defendants. 735

Mr. Hayward: Exception.

The Master: There won't be any leading questions on anything important.

Q. Take up the other floors and describe what floors or what parts of the floors are used to your knowledge by the complainant, and for what purposes. We have gotten up to the second floor, I think.

736 The Master: No, he has described the basement. He has described part of the first floor, which I suppose is the ground floor.

The Witness: Correct.

The Master: That three-quarters of it was used by the Consolidated Gas Company.

Mr. Ransom: I had so far asked him only as to what was used by the Consolidated Gas Company. I had not asked him to describe the use of any other part of the building by the tenant.

Q. Is there anything to add so far as what is done by the Consolidated Gas Company on the first
737 floor is concerned?

A. There is nothing.

By the Master:

Q. Have you told us what they use it for?

A. I did not.

Q. Then tell us.

A. It is used for the display of and lights and gas lighting fixtures, and for what is officially known as Branch 2 of the Commercial Department, where consumers apply for service and pay bills when rendered, and by the clerical staff.

738

By Mr. Ransom:

Q. Are there hallways or vestibules on the first floor in connection with the elevator?

A. There are.

Q. How many of them are there?

A. The elevators?

Q. I mean how many hallways or vestibules? merely one for the whole building, or two?

A. There are two. 739

Q. How many elevators?

A. There are two elevators at one entrance, and there are nine at another.

Q. Do you know at this time the approximate size of either of these entrances, areaways, or vestibules within the building?

A. I am not prepared with that information.

Q. Then take up the other floors, the floors or portions of floors used by the complainant.

A. On the second floor of the building there is a portion used by the complainant. I am not prepared to estimate what percentage of that floor area it is. They occupy a part of it. Also on the 740 third——

The Master: What do they use that second floor for?

The Witness: A display of lighting fixtures.

Q. Gas?

A. Gaslighting fixtures.

Mr. O'Brien: When you say that you mean merchandise, don't you?

The Master: Yes, certainly.

Mr. O'Brien: And appliances?

The Master: Certainly.

The Witness: I mean gaslighting fixtures for 741 display.

By the Master:

Q. That is merchandise. Proceed as to the third.

A. On the third there is a portion occupied by a clerical staff.

Q. You cannot give us the portion?

A. I cannot.

742 Q. And on the fourth?

A. On the fourth floor I do not recall any portion occupied by the Company; nor on the fifth. As I recall there is a small portion on either the fourth or fifth floor occupied by the Consolidated Gas Company. The twelfth floor is entirely occupied by the Consolidated Gas Company.

Q. For what purpose?

Mr. O'Brien: Well, you jumped there.

The Master: Yes, the other floors are occupied by other tenants, Mr. O'Brien.

By Mr. Ransom:

743 Q. What is done on the twelfth floor?

A. There is the Department of Neutralization, the Meter Department, the Department of Arrears and Claims, the Pay Roll Department, and a branch of the Commercial Department.

By the Master:

Q. Utilization means what?

A. Utilization has to do with the appliance, with the employment of gas in the industries, the industrial application of gas as a fuel.

Q. In other words, it is a department which has

744 to do with the interesting of the public in the use of gas for various purposes?

A. It has to do with the efficient employment of gas as a fuel.

Mr. O'Brien: Why, is it a laboratory?

The Master: No, wait a minute, Mr. O'Brien.

Mr. O'Brien: We might as well have it understood.

The Master: The Master has rights her

that counsel has not. The Master always has the right to interrupt. What I want to get at is this. Most of the departments that you designated, or rather indicated as to what they are, the utilization has nothing to do with the manufacture of the gas, has it? 745

The Witness: It has not, but with the use of gas; it is an engineering department.

Q. Sort of a propoganda department, isn't it?

A. It is not. Answering Mr. O'Brien's question, they have a laboratory, but not in the building.

Q. I am talking about what they have in that building there. You say part of this twelfth floor is used by the Utilization Department; is that correct? 746

A. That is correct.

Q. Utilization Department means the use to which gas may be put?

A. That is correct.

Q. In other words, it is the department which has charge of the—well, wasn't I right before, that is a sort of propaganda department as to the use and how to use the gas?

A. That is right, to use it efficiently and to the best advantage.

Mr. O'Brien: What do they do there? Can't you tell us what they do? 747

The Master: I won't permit you to do that; you can cross-examine later.

Mr. O'Brien: If the Master is making the record here I want to make it clear.

The Master: You can do it on cross-examination.

Mr. Ransom: I will ask the witness one question on that.

748 By Mr. Ransom:

Q. Is this Utilization Department a department devoted primarily to the obtaining of new customers or to the more efficient use of gas by the existing customers?

Mr. O'Brien: I object to the question as leading.

The Master: No, it is not leading. A leading question is one which tells the witness what to say, and from which he cannot escape either saying yes or no. He can say either yes or no to this, or he can say either the old or new

749 customers.

Mr. O'Brien: Your Honor, in modern days I deem a leading question to be an ordinary wireless from astute counsel to his witness.

The Master: I will overrule the objection and allow an exception.

A. May I have that read, please?

By the Master:

Q. I will tell you what it means. Is it getting new customers or showing old customers how to use the gas more efficiently?

750 A. It means to an extent, both. If the prospective customer can be shown the advantage of gas as a fuel for his purpose.

Q. That is what I said before. It is a selling department of your company?

A. Well, it is more engineering. It is engineering-selling.

Q. Does your pay roll department include the pay roll for the men who make the gas, or just those

no have charge of selling the gas and bookkeeping 751
d things of that sort?

A. The pay roll department has to do with all e employees of the Gas Company.

Q. Of whatever class?

A. No, those carried on the pay roll, the salaried en. That department would have nothing to do th the salaries men. Those paid at a time rate.

Q. In every department.

A. In every department.

Q. Now, take the thirteenth floor.

Mr. O'Brien: You mean there is another pay roll——

752

The Master: Do not answer the question. The question is not allowed. I rule again that counsel will have to reserve these questions for cross-examination. Proceed as to the thirteenth floor.

A. The thirteenth floor is occupied partly by the mpany's auditorium where business meetings are ld, and departmental meetings. The sixteenth or is occupied entirely by the complainant, expt as far as a small portion of it is the accounting partment of the Astoria Light, Heat & Power ompany.

Q. The part that your company occupies, what 753
o they use it for?

A. The executive offices of the company and the ccounting department are on the sixteenth floor of he building.

Q. The next floor?

A. The seventeenth floor is the engineering deartments of the company. The eighteenth floor s the drafting room, blue print room and other

754 branches of the engineering department of the Gas Company. The nineteenth floor is the kitchen and restaurant.

Q. Is that a public restaurant?

A. It is not.

The Master: All right, Judge Ransom.

Mr. Hayward: I move to strike out the testimony of the witness as being incompetent, the witness not having shown himself qualified to give the occupation of the building except the basement, the twelfth, thirteenth, sixteenth, seventeenth and eighteenth stories. In other words I want to strike out his con-
755 jectures as to the amount of space used by the company on the first floor and his guesses as to some space being used on either the fourth or fifth floor, which he does not remember, by this company.

The Master: Motion denied and exception allowed.

By Mr. Ransom:

Q. Is there anything else that you wish to say regarding any of the floors, regarding use?

A. I should have referred to the company's tele-
756 phone exchange which is on the sixth floor of the building.

Mr. Chambers: Which floor?

The Witness: The sixth, and also to a portion of the fourteenth floor, being occupied by the auditorium.

Mr. O'Brien: You mean that the auditorium runs up two stories?

The Witness: That is correct.

Q. This telephone exchange, is it used only by the Consolidated Gas Company, or in part by the Gas Company and in part by other tenants of the building? 757

A. It is used in part by others.

Q. Now I direct your attention to the first map, being Exhibit 178, the Hester Street property——

Mr. Hayward: If the Master please, before that I would like to have the Master inquire of counsel whether he expects to give us some satisfactory proof about this building that he has just gone from the cellar to the nineteenth floor of, in regard to some accurate figures as to the use of this building, the quality of the space used, where different tenants use it, as to light and location, proximity to the elevators, access to the elevators, etc. In other words, such things as ordinarily determine the value of space in similar buildings. 758

The Master: No, I won't make any request of that kind of counsel.

Mr. Hayward: So far I contend this testimony is lacking in any of those essential features, is incompetent, not the best evidence and should be excluded as having no probative value. 759

Q. Premises at the northeast corner of Hester and Elizabeth streets, lots 1 and 5, of block 239; what improvements, if any, are located on this land, and what use is made of the land and the improvements by the complainant, Consolidated Gas Company?

A. The building on the corner of Hester and Elizabeth streets is occupied by a building with two stories and basement, the said basement pro-

760 jecting largely above the sidewalk. It is practically a three-story building.

The Master: What do you mean by projecting largely above the sidewalk?

The Witness: I mean that more of the basement is above the sidewalk level than is below it. It is occupied by what is officially known as Branch No. 1 of the Commercial Department. Except the basement, which is the branch meter shop for that district—meter and fitting shop. The first floor of the building above the basement is occupied by the superintendent's office and clerical staff, and
761 also the cashiers, to whom the consumers pay their bills, and those with whom they deal in applying for service. The second floor of the building is occupied by a clerical staff. The building on lot 5 is the branch of the Distribution Department for that district. A building in the rear on lot 5, that is to say in the northeast corner, is the headquarters of Emergency Wagon Service for that district. An adjacent building contains the heating plant for the property, and a building along the easterly side of lot 1 is used for the storage of pipe by
762 the fitting department.

Q. That building alongside lot No. 1, that is alongside the office building?

That is correct. East of the office building there is a narrow yard space there, and this building stands in that narrow yard space.

Q. What is the nature of it, an open shed, or what?

A. It is one side brick, with a steel roof frame. 763
It is open on one side.

Q. Do the buildings cover the whole or all of this land, or is there a part that is not covered by buildings?

A. There is a portion of the land not occupied by the buildings.

Q. That is this yard space?

A. Yard space, and also a building on the corner of Hester and Elizabeth streets standing a little way back from the building line, to permit the backing up of the meter wagons without blocking the sidewalk.

Q. There is a strip on the side for backing up? 764

A. Yes, sir. The buildings occupy about three-quarters of the gross area.

Q. Of what construction is the building in which is housed the Emergency Wagon?

A. Brick.

Q. One story or more?

A. One story.

Q. Is this also the office and district headquarters for the street department?

A. That is the building which I described as being on the front of lot No. 5.

Q. And the district meter shop and headquarters 765
is in the basement?

A. In the basement of the building on the corner of lot No. 1.

Q. Directing your attention to the property on East 17th and East 18th street between avenues B and C shown on sheet No. 4 of Exhibit No. 178, being lots 7, 19 and 20, in block 985, what improvements, if any, are located on this land, and what

766 use is made of this land and improvement by the complainant company, the Consolidated Gas Company?

A. It is occupied by two gas holders and by buildings and structures pertaining to the street department, as follows:

An office building, a storage building, another storage building and a derrick operated by electrical power.

The land not covered by structures is used for storage of cast iron pipe and fittings.

Q. That is the street department storage yard?

A. Street department storage yard.

767 Q. There is also a boiler and valve house on this property?

A. Boiler and valve house in connection with the gas holders.

Q. Referring to the property at 14th and 15th streets west of Avenue C, lot No. 13, in block No. 982, shown on sheet No. 3 of Exhibit 178, what buildings or improvements are located on this land, and what use is made of them by the Consolidated Gas Company?

A. The Purifier House and Feeder House, and land used for the revivification of oxide pertaining

768 to what is known as the 14th Street Station of the Company.

Q. That is upon lot No. 13 of block 982?

A. Yes, sir.

Q. Any other use of that property?

A. That is all.

Q. Now, block 989, lot No. 1, East 15th Street to East 16th Street and Avenue C?

A. That is occupied by a 3,300,000 cubic foot gas

holder; by a valve and governor house; by a photometer house and by a boiler house. All these appertain to the 14th street station. 769

Q. What do you mean by a governor house?

A. It is a building where the pressure of the gas is governed or controlled as it is put into the mains for distribution.

Q. And what is a photometer house?

A. A photometer house is a building equipped with appliances for determining the candle power of gas, for photometric observation.

Q. Can you more particularly describe this building, as to what kind of a building it is, and what size it is? 770

A. It is a one-story brick building with a sloping roof covered with slate. I do not recall the exact dimensions of the building. Inside of that building is a dark room, the interior of which is entirely black, to avoid all diffusion or refraction of light, and in that room there is the photometer the photometric apparatus and equipment.

Q. Can you more particularly describe the governor house?

A. The governor house is the adjacent building, built of brick, what would be described as fireproof construction, steel floors on steel beams, steel frame, roof covered with terra cotta tile and slate. 771

The connections from the gas holders, between the gas holders and the distributing mains, and also the connection between this plant and other plants of the company, are tied in through this building, and controlled by valves, there being in particular in this building some forty or fifty large valves.

772 In the building also are two exhausters which may be used in sending or receiving gas to or from other stations.

By Mr. O'Brien:

Q. What territory does this governor house control?

A. I do not know.

By Mr. Ransom:

Q. Proceed.

A. In the boiler house, which is likewise what
773 would be described as a fireproof building, there are three Babcock & Wilcox boilers of about 150 horse power each, which furnish the steam for the engines in the governor house previously described, and also for the operation of the gas holder. The boiler house is also tied up with the boiler on the other side of the street, so that we may interchange steam around the plant.

Q. Referring to block 991, lot 1, what improvements, if any, of the complainant, are located upon that land, and what use has been or is ordinarily made of that land by the Company?

A. It is occupied in part by a brick boiler house
774. which is located on the southeast corner of 15th street and Avenue D. The ordinary use of the property has been for the storage of coal used in connection with the 14th street station.

Q. Was there formerly a coal distributing apparatus on it?

A. There was.

Q. What has been the more recent situation as to part of the property?

A. It is occupied, leased and occupied by Booth & Flinn, contractors for building the subway tunnels under the East River to Brooklyn. 775

Mr. O'Brien: Is that 991 you are talking about now?

Mr. Ransom: 991, lot 1.

Mr. O'Brien: I understand that everything that had the pink tint was not leased, but was used by the Company.

The Master: It is apparent that that was not entirely accurate.

Mr. Ransom: The facts as to that will more fully appear.

Q. Booth & Flinn are engaged in rapid transit construction? 776

A. They are.

Q. Will you just describe what part of the property they have been using and under what circumstances?

A. They first applied for and received from the company a plot 100 by 150, the plot being the northeast corner of 14th street and Avenue D.

Q. Just when was that, approximately?

A. About 1913 or 1914.

Q. For what period were they to occupy it?

A. As I recall now, for a period of two years. 777

Q. Was it with reference to any contract with the city through the Public Service Commission and Booth & Flinn?

A. It was. It was to be used as a compressor plant, which, in fact, they did erect on the property, for furnishing compressed air for driving the shells under the East River.

Mr. O'Brien: I move that the last three ques-

778 tions and answers be stricken from the record. This case does not concern the uses to which the lessee may be putting the property.

The Master: I will not strike out the questions and answers, to which no objection was made. No objection having been made, the motion is denied.

Mr. O'Brien: All right then, I will be on the objection hereafter for every question that ought to be objected to.

The Master: Proceed.

A. Later they leased from the company the remainder of the block for the storage of the ex-
779 cavated material they were removing from the heading, which they found they could not dispose of——

Mr. Hayward: Same objection.

Mr. Chambers: I object to that.

The Master: I don't think that has anything to do with this case. It is not being used for gas purposes.

Mr. Ransom: There has been a very temporary use here by a Public Service Commission contractor under a threat of condemnation proceedings. The property, we shall show, is absolutely essential.

780 Mr. O'Brien: That hasn't anything to do with the consumers. The consumers are in this case, though they are not represented by the Corporation Counsel.

The Master: The consumers are represented by the Court here. The fact is that since 191 this property has apparently been used by Booth & Flinn. The fact is, whether it was under threat of condemnation, or whether i

was for the Public Service Commission, or whether it was for an entirely independent concern, since 1913 lot No. 1, in block 991, has not been used for gas purposes. 781

Mr. Ransom: And is not yet.

The Master: And is not now being used for gas purposes.

The Witness: That year may be 1914.

The Master: That is not important; but for some years, four or five years, beginning with the taking of a small section of the block by Booth & Flinn, and ending by their taking all of the block, for the last four or five years that block has not been used for gas purposes, but for the storage of material by Booth & Flinn; that is the fact, is it not? 782

Q. Is it true that during the period of occupancy by Booth & Flinn, there has been no use made by the complainant of any part of the block?

A. That is correct.

Q. And that is still true?

A. That is still true.

Mr. Chambers: May I ask if he answered your Honor's question? I do not understand that he said anything.

783

By the Master:

Q. Do you understand that to be the fact, Mr. Alrich, that for the last four or five years, the entire block, 991, lot No. 1, has been used by Booth & Flinn for storage purposes and not for gas purposes.

A. That is not true as to the last four or five years. It is true of an area of only 100 x 150 feet,

784 as I have testified, at the northeast corner of 14th Street and Avenue D.

Q. How long has it been true of the entire block?

A. As I recall, since 1916, since the first of January, 1917.

Q. Then for at least two years, and possibly 4, all of block No. 991, lot No. 1, has been used by Booth & Flinn, and no part of it has been used by the Gas Company for the manufacture of gas?

A. That is correct.

Mr. Chambers: Why shouldn't that be taken off of the exhibit?

The Master: I don't care about exhibits; I

785 want the facts.

Q. Before that what use had been made of this property, before Booth & Flinn came on to the premises?

A. It was used for the storage of coal necessary for the 14th street station.

Q. And the distribution of coal—a distributing plant had been located on the property?

A. No, only coal storage—the machinery for distributing the coal in the storage.

Q. This was a bulkhead property used for receiving coal?

786 A. That is correct.

Q. During the time that Booth & Flinn have been on the property, in what way has coal been brought in to the 14th Street plant?

A. On several occasions it has been necessary for us to interrupt their use of the bulkhead——

Mr. Chambers: That is objectionable.

The Master: I think it is not responsive. Strike it out.

Q. During the time that Booth & Flinn have occupied the property, in what way has coal been brought into the 14th street plant. 787

A. Over the bulkhead which was in their occupancy.

Q. That is, you have used their bulkhead to bring in coal.

A. We have used our bulkhead, leased to them, under necessity.

Mr. Chambers: I move to strike out "under necessity". Let him state the facts without characterizing.

The Master: Strike out the word.

Mr. Hayward: He will be saying next that they donated it to Booth & Flinn, if you let him go along. We know they didn't. 788

Q. Referring to the property at East 14th and East 15th Streets, Avenues C and D, Lot No. 1, in Block 988, shown on the third sheet of Exhibit 178, what improvements are there on that land, to your knowledge, and what use is made of the land and the improvements by the complainant?

A. Beginning on the east side of Avenue C at the northeast corner of 14th Street and Avenue C is the Works' office.

789

By the Master:

Q. What do you mean by Works' office?

A. The office of the superintendent of the plant and his clerical staff, clerical and supervisory staff. North of that, that is on the east side of Avenue C is a boiler and engine house, and north of that is the engine and exhauster room, and north of that, that is occupying the southeast corner of 15th

790 Street and Avenue C, is a blacksmith, machine and carpenter shop operated in connection with the plant. East of this building on the south side of 15th Street is the condenser house——

Mr. O'Brien: I move to strike out that part of the answer "operated in connection with the plant".

The Master: I will strike it out for the time being.

A. (Continued.) Occupying the middle portion of the block and extending through from 14th to 15th Streets is a retort house, which contains 144 coal gas benches, together with their related charg-
791 ing and discharging machinery, auxiliary apparatus, a multi-tubular atmospheric condenser. In the yard just west of this retort house is a building containing the rotary scrubber, and in the yard two power scrubbers. East of the retort house, occupying the easterly end of the block fronting on Avenue D, is a coal storage building. It is connected with the retort house previously described by a brick building containing a coal conveyor, by means of which the coal is carried from the coal shed and put into the charging hopper for supplying the charging hoppers and the charging machine.

792 In the yard space, but just west of this coal shed and just south of 15th Street, is the tar and ammonia equipment in connection with the plant.

There is a narrow yard space between the westerly side of the coal shed and the easterly end of the retort house along the south side of 15th Street.

Mr. O'Brien: I move to strike out the words "in connection with the plant".

The Master: I think I will allow that to stand. Motion denied with an exception.

Mr. O'Brien: Does he mean physically con- 793
nected or used in connection with?

The Witness: I mean both. I would not mean that it was physically connected and not used.

By Mr. O'Brien:

Q. You would not?

A. No.

The Master: Proceed.

Q. You are sure of that?

The Master: Do not answer that question. The question is not allowed.

A. (Continued.) In the building just west of the 794
coal shed previously described, and on the north side of 14th Street, is the machinery for driving the coal handling machinery, coal distributing machinery in the coal shed.

That is a general statement of the buildings and equipment on Block 988.

By Mr. Ransom:

Q. Mr. Alrich, referring to Block 991, Lot 47, land located on the East River adjacent to the marginal street between East 14th and East 15th Streets, what improvements, if any, are located on 795
that land, and what use is made of the land and improvements by the complainant? That is a bulkhead property, is it?

A. That is a bulkhead. There is a physical structure as well as the right.

Q. What do you mean by a physical structure?

A. A bulkhead built of timber and stone and earth.

796 Q. Used for what purpose under ordinary conditions?

A. For the unloading of coal and other materials used in connection with the operation of the 14th Street station, and also for putting into the barges to take away the tar and ammonia, those fluids.

Q. And has that for some time been under lease to Booth & Flinn, as you have previously described with reference to Lot No. 1 in Block 991?

A. It has been under lease to Booth & Flinn, but under different terms.

Q. Has there been any use of the property by the complainant during the period of Booth & Flinn's
797 tunnel work?

A. There has been.

Q. What use?

A. In the winter of 1917-18 we interrupted their occupancy to unload coal——

Mr. Chambers: I object to that. That is a conclusion. He has stated that Booth & Flinn had leased this. Now he is going to make, it looks as if he is going to pass upon some question of law. He says he interrupted their occupancy.

The Master: No, I understand that the wit-
798 ness was about to state as a fact that while the leases as in force to Booth & Flinn, they did in fact physically use part of the property. Proceed.

Mr. Chambers: Well, that is between Booth & Flinn and themselves.

The Master: What they want to show, I suppose, is the actual necessity for using part

of that property. I will let them show it and allow you an exception. 799

Mr. Hayward: Why would not the leases be the best evidence on these matters?

Mr. Ransom: Not on the question of use.

Mr. O'Brien: Will counsel produce the leases?

The Master: I will not permit the question to be asked. That is something that can be raised by proper objection.

Mr. Hayward: I object to this as not the best evidence.

Mr. Chambers: I will take an exception.

The Master: Col. Hayward's objection is overruled and an exception allowed. 800

Mr. O'Brien: I note on the record that we ask for the production of the leases. My objection will be noted, if your Honor please, to the question on the ground that the terms of the lease will regulate the uses of that property.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Ransom: I consent to strike out, "interrupted their occupancy".

The Master: Upon counsel's consent those words are stricken out. 801

Q. What was done?

A. I went down to the bulkhead and had Booth & Flinn move away the apparatus used in connection with their work, erected a special derrick, and unloaded there some thousands of tons of coal and put it into the coal shed on Block 988.

802 By the Master:

Q. How long did that continue?

A. That work was going on for some months, and my recollection is throughout the winter of 1917-18.

By Mr. Ransom:

Q. Then what was done?

A. We suspended further use, Booth & Flinn resuming the use of it, until later on in 1918, when we again resumed a use of that bulkhead, and continued using it until about November 11, 1918.

803

By the Master:

Q. Two or three months?

By Mr. Ransom:

Q. How long a period was that term of use?

A. That would have been more properly five or six months. Of course I am speaking from memory, I have no memorandum here, but my recollection is that it was five or six months.

By the Master:

804 Q. Ending in November, 1918?

A. Ending, in my recollection, about the time the armistice was signed.

By Mr. Ransom:

Q. Has there been any resumption of use since that time?

A. My recollection is there has been some small use of it since that time.

By the Master:

805

Q. The same kind of use, you mean?

A. The same kind, receiving materials over the bulkhead.

By Mr. Ranson:

Q. But there has been no possible use of this property during that time for coal storage or otherwise as previously?

A. You are referring now to Block 991, Lot No. 1?

Q. Yes.

A. No, sir.

806

By the Master:

Q. Let me ask you, Mr. Alrich, several times in your testimony this morning you referred to what I thought was cold storage. I was wondering whether you had "cold" storage at some of these plants?

A. No.

Mr. O'Brien: I was going to ask that question about the Edison Building.

By Mr. Ransom:

807

Q. Now, referring to the land on the south side of East 20th Street, between First Avenue and Avenue A, Lot No. 35 in Block No. 951, shown on Chart No. 5 of Exhibit No. 178. What improvements, if any, are located on this land, and what use of the land and improvements is made by the complainant, the Consolidated Gas Company?

A. The entire street front of 176 feet is occupied by a three-story brick stable building, in the rear

808 of which are some one-story buildings used for the shoeing of horses and repairs to wagons.

Q. Called a blacksmith and horseshoeing shop?

A. That is correct.

Q. That is used by the complainant?

A. It is.

Q. Is there any other use made of it that you now recall?

A. Wagons are stored during the night, some wagons are stored during the night in the yard in the rear.

Q. Now, referring to Lots Nos. 7, 29, 30 and 35 in Block No. 952, land on East 20th and East 21st
809 Streets, what buildings and improvements are located thereon, and what use is made thereof by the complainant?

A. On lot No. 35, occupying the southwest corner of 21st Street and Avenue A, there is a brick building used as a governor and engine house. It contains a complex system of mains and valves for controlling the transmission of gas. There are five large exhausters used, the technical name is exhauster, but pump would be the description more generally understood.

Q. Pumps for gas?

810 A. For gas, the technical name being an exhauster, more definitely described as the cycloidal impeller type of exhauster.

By Mr. O'Brien:

Q. Who calls it a cycloidal impeller?

A. Those that understand the business.

By Mr. Hayward:

811

Q. What else is there on this property?

A. Lot No. 30 is occupied by a three-story brick machine shop and storage building.

Q. A machine shop and storage building?

A. Yes.

Q. Of the complainant?

A. Yes, of the complainant company.

Q. Just what is done there?

A. They store in there machinery and tools and lumber. The carpenter I referred to as having a shop on lot No. 1, in block No. 978, stores his lumber over there. He is the company carpenter.

812

Q. Also used as a company machine shop?

A. For the storage of such things.

By Mr. O'Brien:

Q. You mean junk, purely junk?

The Master: Don't answer that question.

By Mr. Ransom:

Q. What else is on that property?

A. On lot No. 30 nothing. On lot No. 29 there is pipe storage place. On lot No. 7, the westerly end of the lot is occupied by a gasholder, a two-lift gas holder having a storage capacity of a billion and a half cubic feet, and in connection with that there is a valve house.

813

The intervening space between the gasholder and the buildings on the easterly end of the block is occupied by coal storage.

Q. Coal storage used in connection with the plant?

A. The coal used in the plant on block No. 979.

814 Q. Is or is not the building at the northwest corner of Avenue A and 20th street, on lot 29, of block 952, rented or is it used by the Company?

A. A building on lot 29?

Q. Yes.

A. There is no building on it. The land is used by the Company. There is pipe stored on it.

By Mr. O'Brien:

Q. You mean right on that corner?

A. Yes, the lot marked 20 feet wide, northwest corner of 20th street and Avenue A.

815

By Mr. Ransom:

Q. What are the buildings No. 329 Avenue A, on lot No. 30 of block No. 952?

A. That is on lot No. 30. It is a building used for storage, as described.

Q. What improvements, if any, are located on the land on East 21st and East 22nd Streets, lot No. 1, in block No. 953, what buildings and improvements are there, and what use is made of them by the Consolidated Gas Company?

A. The buildings on the east side of First avenue,
816 extending from 21st street to fifty feet on 22nd Street and 200 feet along the north side of 21st Street, together with a building standing in the interior of the block, are the Central Garage for the automobiles of the Consolidated Gas Company.

In the middle of the block there are four gas-holders used for gas storage.

On the extreme easterly end of the block are two

relief holders used in connection with the water 817
gas plant on block No. 979.

Q. Can you more particularly describe those holders?

A. Well, the four holders first described have a capacity of 400,000 cubic feet each. They are three-lift. The two relief holders have a capacity of 360,000 cubic feet each. They are two-lift holders.

Q. Proceed.

A. Also, on this block, in the center, near the four gasholders described as being used for storage, are three valve houses used in controlling the gas received and sent out.

In the corner of the block, northwest corner of 818
21st Street and Avenue A is a brick building used for the storage of tackle.

In the southwest corner of 22nd Street and Avenue A is a brick building which is a paint shop.

In the space between the two relief holders described, and the two gasholders, is a two-story brick building which is a tinsmith shop.

Q. And used by the complainant?

A. Used by the complainant.

Q. Are there any construction and repair shops in connection with this property, other than what you have described? 819

A. In connection with the garage we have a repair shop for repair work for the automobiles. That is located in a building, which I described as being in a building as being on the east side of First avenue north of 21st Street.

Q. Referring to lot No. 1, in block No. 979, land at East 21st and East 22nd streets, Avenue A, to the marginal street, what improvements, if any, are

820 located thereon, and what use is made of the land and buildings and improvements by the Consolidated Gas Company? That is what is called the manufacturing plant of the 21st Street Station, is it?

A. It is, the entire block, with the exception of a very small yard space at the easterly end, enclosed in general by that triangular area, is occupied by a group of buildings which are immediately adjacent. Each building is immediately adjacent to and abuts the other.

The portion of the building on the north east corner of 21st Street and Avenue A is a three
821 story brick building which is the works office, and laboratory on the third floor.

East of that, on the north side of 21st Street, is the engine and exhauster building; also the hydraulic pumps are in this building.

East of that is a building in which there are three engines and blowers, which are the blowing plant for the water gas apparatus.

The building on the south side of 22nd street extending eastward from Avenue A and beyond the middle of the block, is the generator house and contains 14 generators, together with the
822 piping, equipment, elevators and auxiliary apparatus used in connection with their operation.

Q. Is water gas or coal gas manufactured there?

A. Water gas. There are feed water heaters and numerous accessory apparatus of that type too numerous to describe.

In the building in the middle of the block there are six Hazleton boilers of 250 H. P. each, and

there are eight boilers of the Babcock & Wilcox type, having a total horse power of about 2300 horse power. 823

In the center of the block on the north side of 21st street, there is a two-story building, which is a machine shop and carpenter shop.

East of that is another workshop where pipe and fitting work is done.

East of that, still on the north side of 21st street, but near the easterly end of the block, is a pump house, and a coal shed, the coal shed being the building from which the coal is taken immediately from storage in the operation of the plant.

On the southerly side of 22nd street near the easterly end of the block, there is a building containing ten steel tanks for the storage of oil. 824

West of that building there is a portion of the tar separating apparatus, and four multi-tubular condensers. South of the building just described, in the center of the block, is the remainder of the tar separating apparatus.

In the yard space, in the triangular area described, there are a number of tanks used for the storage of oil and tar.

There is also near the north side of 21st street a two-story pump house in which there are oil pumps. 825

In connection with the coal shed described as being on the north side of 21st street near the easterly end of the block, there is a belt conveyor which extends from the bulkhead across and under the marginal street and upward into the building, so that coal received at the bulkhead is carried directly by means of this conveyor under

826 the marginal street, carried up into the building and distributed into the hoppers therein.

In addition to the apparatus thus described, there are numerous pumps and feed water heaters and apparatus of a miscellaneous character.

Q. This plant is operated by the complainant in the manufacture of water gas?

A. It is.

Q. Referring to the land in lots Nos. 5 and 6 in block No. 978, East 20th and 21st Streets, what buildings and improvements, if any, are located on that land, and what use is made of this land and improvements by the complainant?

827 A. Block No. 978, lot No. 6, is occupied over its entire area by nine buildings which extend from street to street.

The five buildings at the easterly end are occupied, three of them for the storage of coal, and two of them for the storage of refractory and other materials.

The sixth building, from Avenue B is a purifier house, containing eight purifying boxes together with their valves and accessory equipment.

The seventh building from Avenue B contains six multi-tubular condensers, two vertical scrubbers,

828 shaving scrubbers and miscellaneous accessory equipment, valves and piping.

The eighth building, which is unroofed, contains six shaving scrubbers, together with the accessory equipment.

The ninth building, which abuts the easterly side of lot No. 5, and extends all the way through from 20th to 21st street, contains twelve purifying boxes, together with the accessory valves and equipment.

The building covering lot No. 5 contains seven station meters, five of the wet feeder type and two of the rotary proportional type, together with the accessory valves and piping. 829

Q. Is this a part of the 21st Street manufacturing plant?

A. It is.

Q. And is operated in connection with it?

A. It is.

Q. Being also physically connected with it?

A. It is physically connected by railroad tracks that run across 21st street from the coal storage building, over to the north side of the street, the generator house. 830

Q. And by pipes?

A. By pipes.

Q. Now, referring to the land on East 20th Street and East 21st Street, from Avenue B to marginal street, Lot No. 37, which also formerly included lots 41, 42, 43 and 51, of Block No. 987, what improvements or structures are located thereon, and what use does the complainant company make of that land and those improvements?

A. There is a 500,000 gallon oil tank on this block.

Q. Gas oil? 831

A. Gas oil.

Q. For storage purposes?

A. For the storage of gas oil used in the manufacture of water gas in this plant. It is the largest oil tank on Manhattan Island.

South of that, in the interior of the block, is an underground tank used for the storage of drip oil

832 accumulated in connection with the operation of this plant.

The rest of the block was occupied for coal storage.

Q. In connection with that station?

A. This 21st Street station.

Q. This is also part of the water gas station at 21st Street?

A. It is.

By the Master:

Q. Is it the part that was formerly occupied for coal storage that has been taken away?

833 A. It has not been taken away, we still own it.

Q. But you are not using it?

A. Not for storing coal.

By Mr. Ransom:

Q. The land now occupied by the Veterinary house, that part has been taken away?

A. We still have the title to the land.

Q. This gas oil storage tank, is that enclosed in any way by any wall?

A. It is, both by an iron fence on the south line, a woven wire fence, and by a circular concrete wall

834 designed to retain the oil in case the tank should burst.

Q. Referring to Lot No. 23 in Block 1090, land on the north side of West 42nd Street, between Eleventh and Twelfth Avenues, what buildings and improvements, if any, are located on this land, and what use does the complainant company make of the land and the improvements?

A. On the southeast corner of Lot No. 23, that

is to say, on the north side of 42nd Street, and be- 835
ginning 100 feet west of Eleventh Avenue, there is a one-story brick building, an office and scale house.

The rest of the block is used for the storage of the coke produced at the 42nd Street station, which is located on Block 1089.

Q. The 42nd Street station is a coal gas plant?

A. It is.

Q. Now, is there a coke sales office?

A. I have just described that.

Q. That is the building you have just described?

A. Yes, sir.

Q. Is a part of this property occupied by a build- 826
ing which is rented to the occupants?

A. No, there is no building rented on Lot 23. The only building on it is the one I have described.

Q. What improvements, if any, are located on the land on West 41st and 42nd Streets, Eleventh Avenue to the Hudson River, Lot No. 1 in Block No. 1089, and Lot No. 7 in Block No. 1107, what improvements and buildings are there on that land, and what use is made of the land and the improvements by the complainant company?

A. In the easterly end of the block, that is to say, a length of about 200 feet, westerly from the west side of Eleventh Avenue, is occupied by four gas 837
storage holders. In the center of those four holders is a brick valve and governor house.

On the north side of 41st Street adjacent to the southerly holders is a meter house containing a station meter.

Just west of the holders, extending through the block from 41st to 42nd Street is a building in the northerly end of which is the office and meter house,

838 and the remainder contains the purifying equipment, together with the valves and piping.

In the northerly part of the building described as an office and meter house there are three station meters, also an exhauster and engine.

On the south side of 42nd Street, in the westerly portion of the block is a building which contains sixty coal gas benches, also an atmospheric condenser, a multi-tubular condenser, and two vertical scrubbers.

On the north side of 41st Street occupying the center of the block is a ground of brick buildings built immediately adjacent and connected to one
839 another, which contains three ranges of coal gas benches, and three exhausters, two rotary scrubbers, two vertical scrubbers, and a multi-tubular condenser, together with miscellaneous equipment, engines, valves and piping.

In the space between the retort house described as being on the south side of 42nd Street, and the retort house as being on the north side of 41st Street, is a vault occupying the full space between the two buildings, which contains three steam boilers; also the plate shops and pipe shops and repair shops used in connection with the plant.

840 West of the retort houses described are the coal storage buildings and yards, a pier extending into the Hudson River which has an overhead tramway, by means of which coal is unloaded from the barges which come to the pier, and which is carried back in cars and deposited into the storage buildings and on the storage area.

On the dock front on the north side of 41st Street

there are tanks for the separation and storage of 841
tar and ammonia.

On the south side of 42nd Street, just east of the bulkhead, there are tanks for the storage of gas oil; also a tank for the storage of ammonia.

Q. These 42nd Street Works of the complainant, then, are for the manufacture of coal gas?

A. They are.

Q. Referring to the land on 44th and 45th Streets, between Eleventh and Twelfth Avenues, Lot No. 7, Block No. 1092, of the 44th Street holder station, what improvements, if any, are located on this land, and what use does the complaint make of the land and the improvements? 842

A. The portion of Lot No. 7 shown by sheet No. 7 of Exhibit No. 178, is occupied by four gas storage holders, in the space in the center of which is a valve and governor house, in which are the valves and piping for controlling the gas which is sent in to or from these gas holders.

West of the gas holders there is a small storage building for tools and miscellaneous equipment used in connection with the station.

The yard is enclosed by a high fence of brick and stone construction.

Q. As to Lot No. 9, in Block 1093, what buildings 843
and improvements, if any, are located upon it, and what use is made of the land and improvements by the Consolidated Gas Company?

A. The portion of Lot No. 9 shown on the map as tinted, is occupied by a gas storage holder having a capacity of two million cubic feet; also by an engine and exhauster house adjacent to which is a boiler house containing two steam boilers.

844 This property is enclosed on the south side of 46th Street and on the north side of 45th Street by a wall of brick and stone construction.

Q. Referring to the land on East 62nd Street and East 63rd Street, between First Avenue and Avenue A, Lot No. 6 in Block No. 1457, which is a part of the holder station, or is the holder station at that point, what improvements, if any, are located on that land, and what use is made of the land and improvements by the complainant company?

A. Lot No. 6 is shown on Sheet No. 9 of Exhibit 178, and is occupied by a gas holder having a capacity of three million cubic feet.

845 The property on the south side of 63rd Street and north side of 62nd Street is enclosed by a fence of brick and stone construction.

Q. Referring to the land on West 65th and West 66th Streets, west of West End Avenue, Lot No. 21 in Block No. 1171, constituting the 66th Street holder station and meter shop, what buildings and improvements, if any, are located on this land, and what use is made of the land and improvements by the Consolidated Gas Company?

A. On the southwest corner of 66th Street and West End Avenue is a two-story brick building of

846 fireproof construction which is the headquarters of the distribution department for that district.

Q. What do you mean by Distribution Department?

A. The department of mains and services, commonly called the Street Department.

On the north side of 65th street, just west of West End avenue, is the headquarters of the Emergency Service, for that district, there being a brick

building of fireproof construction, in which the 847
emergency wagon and its crew and equipment are located. On the south side of 66th street, just east of the railroad, is a large brick building of the Meter and Fitting Department for that district.

Q. The branch meter department?

A. The branch meter department contains machinery and pipe and fittings, meters, and the clerical staff of that department is located there.

Q. Adjacent to this building and to the east are three small storage buildings. On the north side of 65th street, on the westerly end of the block, there is a row of buildings used for storage purposes 848
both by the meter shop and by the distribution department. In the yard there is a derrick operated by electrical power for the handling of the pipe and fittings, the cast iron pipe and fittings which are stored there by the Distribution Department.

Q. Is there a workshop of the Appliance Department there?

A. Only as far as such work is carried on in the fitting shop.

Q. Anything in connection with the work to be done in the way of special equipment for installation of hotel ranges?

A. Why, yes, in special plate work or sheet metal 849
work necessary in connection with a large installation of hotel ranges would be done in that shop.

Q. As to the land in connection with the same property, lot 1, block 1157, land on West 65th Street, to West 66th Street, west of West End Avenue, what are the improvements thereon, if any, and what use does the complainant make of that land and the buildings?

850 A. Located on block 1157 there are two large gasholders each having four lifts and a storage capacity of 4,000,000 cubic feet each. On the north side of 65th street, near the center of the block, there is a valve and governor house in which is located the engines, exhausters, piping and valves, used in the control of the gas being received at this station and sent out therefrom. In the center of the block about where the No. 1157 appears on the drawing there is a brick boiler house of fireproof construction, which contains three Babcock & Wilcox boilers, together with feed water pumps, feed water heater and other accessory equipment. The
851 block is surrounded and enclosed by high brick fences, of brick and stone construction.

Mr. O'Brien: Do you mean the whole block, Mr. Alrich?

The Witness: The whole block.

Q. When you speak of the capacity of holders, you mean the cubic feet of gas?

A. I mean the cubic feet of gas which may be expelled from the holder by deflating it, there being some gas contained in the spherical crown that cannot be expelled from the holder by deflating it.

Mr. O'Brien: I move to strike out the latter
852 part of the answer, as to there being some gas expelled from the holder by deflating it.

The Master: Objection overruled and exception noted.

Mr. O'Brien: The witness has not qualified as a gas engineer, your Honor.

The Master: I will let it stand.

Mr. O'Brien: Exception.

Q. Referring to lot 1, block 1670, land on east 98th to 99th streets, First Avenue to Second

Avenue, constituting the so-called 99th street works, 853
what buildings or improvements, if any, are located on this land, and what use does the complainant make of the land and improvements?

A. On the north side of 98th street, east of Second avenue, are four gas holders, two having a storage capacity of 600,000 cubic feet, and one having a storage capacity of 100,000 cubic feet, and a relief holder of 150,000 cubic feet, together with their accessory valves and equipment. On the south side of 99th street, east of Second avenue is a two-story office building, where the superintendent of the works has his office, clerical staff and laboratory equipment. East of the building just described is 854
the meter house which contains three station meters, two of the wet meter type and two of the proportional meter type. The calorimeter is also in this building. East of the meter house just described is the purifier house, containing the purifying equipment, together with the valves and equipment, and east of it is a condenser and scrubber house, containing two multi-tubular condensers, and two convertible scrubbers.

Out in the yard are two more convertible shaving scrubbers. On the south side of 99th street, near the east end of the block, there is an engine ex- 855
hauster house containing an engine and exhauster, and the accessory valves and piping to be used in connection with receiving gas from other stations, or sending gas to other stations.

On the north side of 98th street, east of First avenue, is a coal shed connected with the generator house located to the west of it, by an overhead bridge. In this generator house there are four

856 water gas generator sets, together with their accessory equipment.

North of the generator house is the engine room which contains the engines, exhausters and blowers used in connection with the water gas apparatus. In the center of the block just east of where the No. 1670 appears on the map, there is a long building which contains four steam boilers of the Babcock & Wilcox type, together with feed water pumps, feed water heaters, piping, both live steam and exhaust and water, used in connection with the boilers, and a steel stack for draft purposes. In the easterly portion of this building is stored the
857 refractory materials.

Q. Just what do you mean by that?

A. Resisting heat.

Q. Proceed.

A. In extensions of this building there are the hydraulic pumps and hydraulic accumulator and also pumps used in supplying gas oil to the water gas generators. The portion of the block just south of 99th street and west of First avenue, contains twelve underground tanks for the storage of gas oil, and in that same area is the tar separator equipment pertaining to the plant. In addition to the
858 apparatus I have described, there are numerous pumps and separators of various kinds.

Q. Is this 99th street works you have described used by the complainant in the manufacture of coal or water gas?

A. Water gas.

Q. And it is operated by the complainant for such purpose?

A. It is.

Q. Referring to the land from East 98th to East 99th streets, from First Avenue to the marginal street, lot 1, block 1692, what buildings and improvements are located thereon, and what use is made of the land and of the buildings by the complainant? 859

A. On the southeast corner of 99th street and First avenue there is a small two-story house occupied by Joseph Stanek, who is the emergency repair man at this 99th street plant. In the center of the block near the figure 1692, there is a scale house with a platform wagon scale. The remainder of the block is occupied by a large pile of coal, carried in storage for this plant. There is also a car storage track adjacent to the dwelling house just described. 860

Q. Referring to the land on East 110th street and East 111th street, west of First avenue, identified as lots 8 and 11, in block 1682, being a part of the 111th street holder station department yard and the like, what buildings and improvements, if any, are located on the properties, and what use is made of the land and of the buildings and improvements by the complainant?

A. Lots 8 and 11 of block 1682 are occupied by two large gasholders, each of five lifts and each having a storage capacity of 5,000,000 cubic feet. In the space between the two holders on the south side of 111th street, there is a brick building of fireproof construction, containing two engines and two exhausters, also of the cycloidal and impeller type, together with accessory valves and equipment used in connection therewith; also a photometer equipment. 861

862 South of this building and located in about the space between the words "block" and the number "1682" is a boiler house containing three steam boilers supplying the steam for the engines just described for the operation of the two gas holders. The property is surrounded by an iron fence enclosing it on the south side of 111th street to the west side of First avenue and the north side of 110th street.

Q. Referring to the adjacent land from East 110th street to 111th street, Pleasant avenue to First avenue, lot 5, block 1704, what buildings or improvements, if any, are located on this land and
863 what use is made of the land and of the buildings and improvements by the complainant?

A. Extending across the westerly end of block 5 from 110th to 111th streets and just——

Q. That is lot 5?

A. Lot 5—extending through from 110th to 111th streets, and just east of block 1, which is the area shown untinted, is a building of fireproof construction which is the northerly end a garage for the company's automobiles, and the southerly half a stable for the company's horses.

On the north side of 110th Street, just east of
864 this building is an annex stable building. East of the garage, on the south side of 111th Street, is the headquarters of the emergency wagon service for that district, there being a brick building of fireproof construction housing the emergency wagon, the crew and their equipment.

South of this building and extending beyond the middle of the block is a building of steel and frame construction open on the west side for the storage of wagons. In the easterly end of the block is the coke handling equipment and coke

storage bins which are connected to the bulkhead 865
by a bridge extending across Pleasant Avenue. The easterly end of the block is used in part for the storage of coke and also for reserve coal used in connection with the 99th Street station previously described.

The center portion of the block is used by the Department of Mains and Services, for the storage of the timber used in trench work in the streets, and also for pipes and fittings. On the north side of 110th Street, east of Pleasant Avenue, is a one-story brick building, which is the Coke Sales offices.

Mr. O'Brien: East of Pleasant? 866

The Witness: West of Pleasant Avenue.

Q. Referring to the land east of Pleasant Avenue, from 110th to 111th Streets, identified on Exhibit 178 as Lot 2, Block 1712, what improvements, if any, are located thereon, and what use is made thereof?

A. There is a dock platform surmounted by a trestle work connecting to the steel and timber bridge which crosses Pleasant Avenue, which supports a belt conveyor by means of which the coke received at the bulkhead is carried across Pleasant Avenue and put into storage in the storage bins 867
already described.

Q. Referring to the land at the northwest corner of First Avenue and east of 111th Street on Sheet 12, Lot 18, Block 1683, what improvements, if any, are located thereon, and what use is made of the lands and improvements by the Consolidated Gas Company?

A. The westerly end of Lot 18 is occupied by a building part open on the east side, a one-story building which extends the full depth of one hun-

868 dred feet eleven inches across the westerly end of the block. That building, together with some apparatus which is in the open yard just east of it is the equipment of the school of instruction of the Department of Mains and Services. That is not a correspondence school; it is a school where the men are taught on the site.

Mr. O'Brien: On the what?

The Witness: On the site. They take them there and they teach them there; they do not teach them by correspondence.

Q. Proceed?

869 A. On the north side of Lot 18, in the middle of the length, there is a two-story building used for the storage of wrought iron pipe and fittings by the Department of Mains and Services. The easterly end of the lot is used by that same department for the storage of cast iron pipe and fittings.

Q. Referring now to the land on the south side of West 132nd Street, between Broadway and Twelfth Avenue.

A. That is to say, shown by Sheet 15.

Q. Shown by Sheet 15. Lots 50, 53, 54, 55 and 56 of Block 1998. What improvements are located on it and what use is made of the lands and improve-

870 ments by the Consolidated Gas Company?

A. Lot 50 and a portion of Lot 53 are occupied by an engine exhauster and governor house and a boiler house, both being of fireproof construction. The engine and exhauster house contains two engines, two Buckeye engines, two exhausters, together with the valves, piping and other accessories and equipment. The boiler house contains three Babcock & Wilcox boilers, together with feed water pumps, feed water heaters and piping, accessory

piping. Lots 54, 55 and 56 are occupied by the coal storage in connection with this plant. 871

Q. What about Lot 1, Block 1999 on the same chart, what improvements are located on it, and what use is made of the land and improvements by the complainant?

A. That is occupied by a five-lift gas holder having a storage capacity of five million cubic feet. It is connected by valves and connections with the governor house already described as being in Block 1998, Lot 50.

Q. That is the gas holder adjacent to the Riverside Drive viaduct?

A. It is. 872

Q. What improvements, if any, are located on the lands on the south side of West 57th Street, between Seventh Avenue and Broadway, Lot 38, Block 1028?

A. The entire lot is occupied by the office, by the commercial branch known officially as Branch 4 of the Commercial Department. It contains the show rooms for gas appliances and lighting fixtures, the clerical force who keep the consumers' accounts for that district, and the cashiers who receive the bills paid, and the application clerks for those desiring service—all of the commercial department work of that district. 873

Q. Referring now to the land on the north side of East 132nd Street, from Locust Avenue to the East River, known as Lot 360 of Block 2583, comprising the so-called Locust Avenue testing and tunnel station, what buildings and improvements, if any, are located thereon, and what use is made of them by the complainant?

A. On the north side of 132nd Street, east of

874 Locust Avenue, there is a brick building, a one-story brick building which is the testing station used in connection with the tunnel. The tunnel is located in the enclave shown unshaded. The open area is used for storage.

Q. Referring to the property on the south side of 159th Street, between Edgecombe Avenue and St. Nicholas Avenue, Lot 23, Block 2108, the so-called meter shop, what buildings and improvements are thereon, and what use is made of the lands and buildings by the complainant?

A. The entire lot is occupied by a brick building which is the district headquarters of the Meter and
875 Fitting Department for that District.

Q. Finally, the land at Fordham Road and Sedgwick Avenue, Lot 1, Block 3236, in the Borough of the Bronx, the so-called Kingsbridge holder station, what improvements, if any, are located on this land and what use is made of the land and improvements by the complainant?

A. Located on this property there is a gas storage holder of five lifts having a storage capacity of ten million cubic feet and the largest steel tank in the world. Along the north side of Fordham Road there is a brick building of fire-proof construction
876 which contains two vertical engines and two exhausters and three Babcock & Wilcox boilers, and numerous accessory appliances, such as feed water heaters, feed water pumps, and also the valves and piping connecting this station with the other plants of the company.

Mr. O'Brien: May I ask the witness a question right here? How do you use that term "plant", Mr. Alrich?

The Witness: Plant?

Mr. O'Brien: Yes. 877

The Witness: You mean do I restrict it to a place where gas is made?

Mr. O'Brien: Yes.

The Witness: Or use it in connection—why, when I say plant in general I would mean any of the company's buildings, apparatus and equipment. I would speak of it collectively as plant.

Mr. O'Brien: Then you do not confine it to the place where the gas is manufactured?

The Witness: I do not, no.

Q. Well, is the commonly used term with respect to places where gas is manufactured the 878 term "Works"?

A. "Works", yes, sir.

Q. And the manufacturing plant and distributing plant are the two kinds of plants?

A. Or holder station, using the usual expression. A holder station.

Q. A plant is classified between manufacturing and distributing?

A. It is.

Q. But this property at Kingsbridge, the Fordham Road property, is there any manufacturing carried on there? 879

A. There is not, of gas.

Q. That is purely a holding station; is that correct?

A. That is correct.

Mr. Ransom: If the Master please, yesterday as to Complainant's Exhibit 164, I had, as you may recall, a printed copy of the Certificate of Incorporation of the Harlem Gas Light Company which was admitted in evidence at folio 483 of the record, upon con-

880 dition that I produce a duly authenticated copy. I have had the copy which I had yesterday duly authenticated by the County Clerk, and I would like to have the record show that it has been produced and submitted to the defendant's counsel.

The Master: It is so noted. It is considered in evidence.

Mr. Ransom: It is now fully considered in evidence.

Mr. O'Brien: Your Honor, I would like to ask permission to be granted to the representatives of the defendants to inspect the
881 properties.

(Informal discussion ensued off the record.)

Mr. Ransom: There is a question whether you want to fix some time when the examination of Mr. Alrich shall continue.

The Master: I am going to say now, so far as Mr. Alrich's examination is concerned, and so far as a postponement for the purpose of cross examining Mr. Alrich is concerned, I will make this ruling: The cross examination shall proceed with this and all other witnesses when
882 the direct examination is finished. If at the request of counsel the cross examination is postponed, counsel making that request assume the responsibility for anything happening to the witness, with the distinct understanding that the witness shall die or become incapacitated or for some reason cannot be produced, the failure to cross examine him shall not invalidate his testimony.

Mr. Ransom: So far as the complainant is

concerned, I am willing to agree or consent to 883
the postponement of the cross examination.

The Master: I am going in this instance, because I understand no inspection has been made and nothing has been done about looking at the plants, to rule that you can put on another witness and they can have a reasonable opportunity, a couple of days if they like,—that is enough,—just to see that the things are there that Mr. Alrich has testified to. But if anything happens and you lose the benefit of cross examination that is up to you.

Mr. O'Brien: Isn't that somewhat unusual, 884
to make provisions like that for death and other calamities?

The Master: No, the rule is this: The party producing a witness must produce him for cross examination. That is as I understand the rule; am I correct?

Mr. O'Brien: Yes.

The Master: All right. The rule likewise is when the direct examination is finished the cross examination shall proceed.

Mr. O'Brien: But in rate cases, your Honor?

Mr. Hayward: I do not agree with that at all, no. It is not the rule, never was the rule, 885
and never will be the rule in the world, that you have to immediately proceed to cross examine a witness after his direct testimony is closed.

Mr. O'Brien: Why, they bring experts in with tons of matter.

Mr. Hayward: In cases where expert testimony is taken I never have known the court to decline——

886 The Master: This is not an expert.

Mr. Hayward: He is not an expert?

The Master: Not on these facts.

Q. What do you call him?

The Master: He is simply stating the facts, as I can see it.

Mr. Hayward: Well, on any facts suitable for inspection by opposing counsel—and they are myriad—whether expert or not, I never saw the Court crowd counsel ahead to cross examine in the case.

The Master: You are going to see it now. My ruling will be in this case that when the
887 direct examination of a witness is finished, counsel will be expected to proceed with the cross-examination.

Mr. Hayward: I am seeing in this case the Master refusing to give the respondents what the counsel for complainant offers to give to them, which is a novelty.

The Master: I have told counsel that you probably can get more by counsel by amicable agreement and adjustment than I may be willing to concede.

Mr. Hayward: But that is what he gives us
888 in open Court.

The Master: I am going to offer counsel the postponement of the cross-examination, but only on one distinct understanding, and that is, that the responsibility, if anything happens to the witness in the meanwhile is on counsel asking for the postponement, and that the complainant shall not lose the benefit of the direct proofs because of the inability of counsel to cross-examine by reason of a postponement.

Mr. Hayward: That I say, and I want to say in the record, is a fixing of the responsibility entirely beyond the power of the Master; that he has no right to fix what is unprecedented and unheard of in any litigation; that the Master has no right to say where the responsibility for that will lie, or what the effect of such an untoward accident happening prior to the cross-examination will be. 889

The Master: Colonel Hayward, we will get nowhere by a discussion as to who is right or wrong. I am as clear as can be about that rule, and not only am I clear about it, but I am absolutely sure that I have correctly stated the rule. Now, in view of the discussion and following the same rule that I followed right along, where I have tried to extend what I believe to be favors, and where those favors are not received and exception is taken to it—— 890

Mr. Hayward: I don't know what the Master refers to by giving favors in this case.

The Master (Continuing): I now rule that the cross-examination of this witness will proceed.

Mr. O'Brien: You mean forthwith, your Honor? What is your Honor's ruling? 891

The Master: The time has arrived for an adjournment, so I am not going to say forthwith. The Court stands ready to adjourn.

Mr. O'Brien: What is your Honor going to say when they are not ready to produce a witness? Are you going to close the case? Suppose the complainant is not ready to go on with the witness, and wants a day, is the same

892 rule going to operate and the case close forthwith?

The Master: The same ruling is going to operate as to all of the parties in this suit, and as to every branch of the suit. The testimony of the witness Alrich, the direct testimony, I understand, is completed?

Mr. Ransom: It is completed.

The Master: I now direct counsel to proceed with the cross-examination.

Mr. Chambers: May I say a word on the record?

The Master: Yes.

893 Mr. Chambers: It seems to me your ruling is harsh and unjust, in view of the fact that the aforesaid witness has testified to matters which, if he should die, could be supplied by others; I mean he has not testified to a thing that is peculiar to his own knowledge, so if he should die or be incapacitated, they would be able to supply that proof. If that is so, it is apparent that your Honor's ruling is, it seems to me, almost unfair, and would be unfair to the defendants.

The Master: I agree with you, Mr. Chambers, that in this particular instance the 894 chances all are that nothing serious will happen; but in this, as in other instances, I am establishing the rule, so that there will be no question about what is going to be done in the future.

Mr. O'Brien: Your Honor, I respectfully submit before you clinch your ruling by clos-

ing the discussion, that it is entirely foreign 895
to a rate case, such a ruling.

The Master: What is the difference between a rate case and any other case?

Mr. O'Brien: There is a whole lot of difference, and the Court has made a difference.

The Master: What is the difference?

Mr. O'Brien: The thing emphasized in the Supreme Court of the United States is that there shall be a frank disclosure, and we are going to inspect their plant and inspect their plant before we examine their witness.

The Master: What is the difference? 896

Mr. O'Brien: I will say what the difference will be. If we reach a point in this case where we feel, with all due respect to the Court, that a ruling is without warrant in the law, unjust or unfair to the defense, and contrary to the usages of rate cases, and we walk from this court room and the complainant is allowed to proceed with the rest of the case, and we do not appear, the courts above will not consider the report or the findings in such case.

The Master: We will see what happens.

Mr. O'Brien: They would be no better off 897
than throwing up on an agreed statement of facts or demurrer, and in such cases the Supreme Court of the United States has declined to make a ruling and declared the law confiscatory.

The Master: Do I understand, Mr. O'Brien, as representing the District Attorney, that what you say is a threat that if you do not like

898 the rulings of this Court, you will walk out of court?

Mr. O'Brien: I spoke of the effect of the severity of the rule.

The Master: I do not care how severe the rule is. Do I understand if you do not like the rule and you think it is severe, you won't continue with this case.

Mr. O'Brien: That will be taken care of at the proper time.

The Master: Do I understand that is a threat?

Mr. O'Brien: I do not have to make threats.

899 I will make them before the proper tribunal.

The Master: I understand a motion has been made returnable before Judge Manton to-morrow morning for a further stay of the trial; is that correct?

Mr. Ransom: That is true.

The Master: What time is that motion returnable?

Mr. Ransom: 10:30.

The Master: This court will stand adjourned until 9:15 to-morrow morning.

Mr. O'Brien: Will your Honor suspend dur-

900 ing the time of the argument?

The Master: I will take that up at 9:15 to-morrow morning.

Adjourned to Friday, July 25, 1919, at 9:15 A. M.

Last Complainant's Exhibit No. 181.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 901

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 25, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. FARLEY, MR. HAYWARD, MR. GOLDMARK, MR. CHAMBERLAIN, of Counsel 902
for Public Service Commission.
MR. O'BRIEN, of Counsel for defendant Swann.

Mr. Ransom: Shall we proceed?

The Master: Have you further questions to ask?

Mr. Ransom: I have not.

The Master: Are any of you other gentlemen ready to cross-examine?

Mr. Chambers: We are not ready to, but if we are obliged to we will make a try at it.

The Master: Who in order is the first defendant; 903
the Attorney General, isn't he? I think in the presentation of proof and in the cross-examination so far as possible I am going to——

Mr. Hayward: I did not get that, your Honor?

The Master: I think in the cross-examination of witnesses I am going to rule that the Attorney General who is the first defendant, shall have first say.

904 Mr. Hayward: That is satisfactory to us.

The Master: Who is the second defendant?

Mr. Hayward: The District Attorney is the second defendant.

The Master: The District Attorney will be the second in cross-examination and the Public Service Commission the third.

The Master: I was just saying, Mr. O'Brien, that I think in the conducting of cross-examination we will follow the rule that the defendants in the order in which they are placed in the case shall have the right to cross-examine. The Attorney General being the first defendant, he will
905 have first right to cross-examine, the District Attorney second, and the Public Service Commission third; and in the presentation of the defendant's evidence, so far as possible, I would like to have it put in the same way.

Mr. Hayward: That is very satisfactory to me, and it will lighten my efforts, undoubtedly. By the time eminent counsel, my associates, have finished, I don't think there will be enough left for me to ask about.

Mr. Ransom: I will just say this: There are a number of typographical errors in this record, in some instances as to names, and so on, with respect
906 to Mr. Alrich's testimony yesterday, and there are some rather notable errors in the previous pages of the record. Might not some procedure be agreed upon whereby at least such errors as may be agreed upon by counsel might be eliminated?

The Master: Why, I think what had better be done is that, as you put in your proof and you find any errors in the testimony and corrections to be made, that you prepare a statement and submit it to the other side, and if you cannot agree on the

corrections that you then recall your witness for 907
the purpose of making such corrections as you deem necessary.

Mr. Ransom: I will do that; I will make up a list.

Mr. Hayward: We could do that every week or two weeks.

Mr. Ransom: I think on Monday of every week we will do that.

Mr. Hayward: Wouldn't Monday of every two weeks be better?

Mr. Ransom: Well, Monday of every two weeks.

Mr. Hayward: It is a good deal of trouble.

Mr. Ransom: I will get up a list a week from 908
Monday, then.

Mr. Hayward: And we will do the same with any suggested corrections we want to make.

Mr. Ransom: Shall we proceed, your Honor?

The Master: Yes, we are waiting for Mr. Chambers. Proceed, Mr. Chambers.

HERBERT W. ALRICH, resumed the stand:

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Mr. Alrich, you say you have been with the 909
company, the complainant, some time?

A. Yes, eighteen years.

Q. A good many years?

A. Eighteen years, yes.

Q. Did you testify upon the trial of the other case for the company?

A. You mean the prior suit? I did not.

Q. But you were there with that company at that time?

910 A. I was.

Q. In what capacity were you then employed?

A. In the engineering department then, as now.

Q. What other positions have you filled with the company except as an engineer?

A. None. All of my positions have been of an engineering character.

Q. And throughout your long experience with the company that is the kind of employment you have engaged in?

A. That is correct. I belong in that department, in the Engineering and Construction Department.

911 Q. You are employed on a salary, are you, or by the piece?

A. On salary.

Q. An annual salary?

A. Well, I get it by the month. I don't know how they classify it; I get it by the month.

Q. And so when you are testifying here you, of course, are interested in the company?

A. I am interested in the welfare of my employers.

Q. And you know, of course, the purpose of this suit?

A. The purpose? I do.

912 Q. And you have reached the conviction, have you, that the company is entitled to the raise of rate?

Mr. Ransom: I object to the question as incompetent and immaterial. The question of whether this witness on matters of fact has reached a conviction in the matter which is submitted to your Honor is quite immaterial.

The Master: I will allow it. It is cross ex- 913
amination—as showing interest and bias.

Mr. Ransom: Exception.

A. What is the question?

Q. (Repeated.)

A. The answer to that lies in matters beyond my sphere of activities. I am an engineer.

Q. Well, are you committed one way or another?

The Master: Have you or have you not reached a conviction, Mr. Alrich, about the matter?

The Witness: I do not know the accounting figures of the company. I never saw their bal- 914
ance sheet.

Q. Then do I correctly represent you when I say you have not yet committed yourself one way or another?

A. I don't know anything about it.

Q. Do you claim to be a gas engineer?

A. I am a gas engineer.

Q. Where did you obtain your training as a gas engineer?

A. While in the employ of the Consolidated Gas Company.

Q. So you claim to be a gas engineer solely because of your employment with this company? 915

A. I rest my qualifications as a gas engineer on my experience while in the employ of the Consolidated Gas Company.

Q. Have you ever been employed by any other company or companies as a gas engineer?

A. As a gas engineer?

Q. Yes. I understood you correctly when you said you claimed to be a gas engineer, did I not?

916 A. Yes, but now as I understand you are asking me whether any one else ever employed me as a gas engineer.

Q. Exactly?

A. I do not recall just at this moment whether any one ever did.

Q. When do you claim or what year was it that you claim to have become a gas engineer?

A. I could not tell you that, Mr. Chambers, any better than I could tell you the year when I could first speak the English language.

Q. Well, was it the year when you could first
917 speak the English language when you became a gas engineer?

A. It surely was not; it was some time later.

Q. Aren't you able to fix a time when you launched out as a gas engineer with some reasonable certainty?

A. No. I cannot recall the particular year in which I appraised my qualifications and rendered a verdict that I had become a gas engineer.

Q. Has anybody else ever rendered a verdict except yourself that you are a gas engineer, that you know of?

A. I judge the company has, because it has re-
918 tained me in its employ.

Mr. O'Brien: You mean as a gas engineer now?

The Master: One moment, Mr. O'Brien. Mr. Chambers is examining.

Q. Was it since this case was begun that you declared or confirmed your conviction that you are a gas engineer, or was it before that?

A. It was before that.

Q. Could I persuade you to go back and fix the 919
date with any more reasonable certainty than that?

A. No, you could not.

Q. Did you claim to be a gas engineer when the other case was brought, in 1907 or 1906?

A. I don't know. I do not recall all the thoughts that went through my mind in the year 1906. That was thirteen years ago.

Q. Aside from claiming to be a gas engineer you say that you are a civil engineer?

A. I am.

Q. In what other professional line do you say you are qualified? You have two now; are there 920
any others?

A. I have one, gas engineering being one branch of civil engineering. If I understand your question, I do not claim to be a surgeon or an attorney.

Q. You don't mean to say that one qualified as a civil engineer is necessarily a gas engineer, do you?

A. No more than every solicitor is a barrister.

Q. That is the best answer you can make to that?

A. No, I could do better.

Q. A graduate civil engineer would not be a gas engineer, would he? 921

A. No, neither would every one admitted to the bar be both a solicitor and a barrister.

Q. What makes one qualified as a gas engineer?

A. Knowledge of gas engineering.

Q. What kind of training do you have to have?

A. It depends on which one of the four branches of gas engineering the student intends to follow. If he intends to follow utilization, which is a very

922 important branch, he would want one line of education and training. If he was going to follow distribution, he would want another line of training. If he was going to follow manufacture, he would want a different line, and if he was going to follow construction he would want a still different line. Construction, that part of gas engineering which has to do with construction, is the part I have learned and followed.

By the Master:

Q. Construction of what?

923 A. Gas works.

By Mr. Chambers:

Q. Publicity is one, isn't it?

A. I do not associate that in my mind, Mr. Chambers, with engineering.

Q. Who is the chief engineer of your company, the chief gas engineer?

A. Mr. William H. Bradley is the chief engineer of the Consolidated Gas Company.

A. Have you a chief gas engineer?

A. No one of such title, but Mr. Bradley has that authority.

924 Q. Is that a sub-division of the company; is the company divided into branches, so that the engineering is a branch by itself?

A. I do not understand that question.

(Question read by stenographer.)

A. Certain departments are engineering departments.

Q. This company, this complainant, sells electricity, does it not, in the city?

A. The Consolidated Gas Company? It does not. 925

Q. It is not engaged at all in the electrical business?

A. I have no knowledge of the Consolidated Gas Company engaging in the electrical industry.

Q. And you are not employed in any phases of the electrical branch of the business, if the Company has any, are you?

A. I am not.

Q. Where is your office, where do you hold forth?

A. At 130 East 15th Street.

Q. Is that the place which you characterize as the main office of the Company?

926

A. It is.

Q. That is that very tall building that you spoke of yesterday?

A. Well, it is nineteen stories.

Q. Nineteen stories?

A. It does not compare with this.

Q. The tallest building, I think, that you described as belonging to the company, isn't it?

A. It is.

Q. Do you claim to have any knowledge of the operation of plants?

A. I do not.

Q. What is your business exactly now, your business with the Company? 927

A. I made very nearly my best effort to describe it in the record already. The recitation would be a repetition.

The Master: Repeat it.

Q. Can you tell me in a few words exactly what you are employed to do by the company?

A. To design work to be constructed——

928 A. Any kind of work?

A. Any kind——

Q. All kinds of work?

A. Any kind of gas construction work, or construction in connection with shops or branch offices, or buildings of that character, only having to do with the gas industry.

Q. Does that cover it all; have you fairly covered the situation now?

A. My engineering duties—that is a briefer statement.

Q. I am speaking of all your duties with the company, what you are employed to do; have you given
929 it all?

A. Well, there might be small matters of routine that do not stand out in my mind, but collectively they are engineering duties.

Q. And who is your immediate superior?

A. Mr. W. Cullen Morris, engineer of construction.

Q. Is he under this other engineer you spoke of, the chief engineer of the company?

A. He is.

Q. Mr. Bradley?

A. He is.

930 Q. Is Mr. Morris second in the engineering force, or what is his relative position to Mr. Bradley?

A. After the chief engineer, as the different branches of gas engineering diverge, Mr. Morris is the head of the construction work.

Q. Then Mr. Morris is really second in the engineering force?

A. As far as construction work is concerned.

Q. Then who is third, do you come third, or where do you come in the list?

A. Well, I might be classed as third, yes. 931

Q. Have you anything at all to do with the operation of the plant?

A. Nothing.

Q. And have you ever had any experience in that line?

A. Certain incidental experience years ago.

Q. With this company?

A. With this company.

Q. Have you ever made gas, water gas say.

A. Well, I don't understand your question. The word "made" can be employed in several——

Q. Put it this way: Have you ever operated a gas set or machines? 932

A. I have participated in the operation of a water gas machine.

Q. With this company?

A. With this company—no, with the New Amsterdam Gas Company.

Q. That is here in the city?

A. Yes.

Q. You were then employed at one time by the New Amsterdam Gas Company?

A. No, I was working on their work.

Q. But for the Consolidated?

A. I was assigned to that work by the Consoli- 933
dated Gas Company.

Q. Still in the employ of the Consolidated though?

A. Yes.

Q. Let us see what you know about a water gas machine. Tell me how you operate a water gas machine?

A. Well, Mr. Chambers, I think I can do that,

934 because the standard water gas machine used by the U. G. I. is made from drawings I made years ago, so I think I will probably be able to help you out.

Q. Go ahead, I asked you?

A. The first thing to do is to heat up the set, get the fire up in the generator.

The next thing is to build up the fuel bed under the generator, and then the next thing is to get the temperatures fixed in the generator, the carbureter and the superheater.

Of course, going along with this there are many technical stunts that have to be done in connection
935 with the rest of the plant. I am assuming that the works' mains have been purged out and everything is prepared for operating the works.

After the proper temperatures have been obtained the blast valves would be closed off and the steam would be turned in and then the oil, and the run would be made.

Q. How long are the runs, for instance?

A. Now, that is an operating question.

Q. Can you tell?

A. I don't know what the practice of the company is.

936 Q. Then you don't know how the plant of the company is operated in that regard?

A. I don't know the details of operations.

Q. Have you covered all that you know about making water gas, or the run of a set?

A. Why, I don't think I have. There are a lot of miscellaneous details with which I have avoided encumbering the record.

Q. Did you ever run a set for this company?

A. Run a set. 937

Q. You yourself?

A. For the Consolidated Gas Company?

Q. Yes.

A. I have no recollection of even having participated in running a water gas set for the Consolidated Gas Company.

Q. Have you ever been employed as an engineer, gas engineer, civil engineer, by any other company except this Consolidated Gas Company?

A. As a civil engineer?

Q. Yes.

A. The work that I referred to yesterday at the Springfield Armory was civil engineering. 938

Q. That was before you were employed by the Consolidated?

A. It was.

Q. But practically all your life up to the present time, since you were graduated, has been bent in the direction of employment by this company?

A. You refer to my graduation——

Q. Well, since you became an engineer?

A. Since I became an engineer—let us have that question.

(Question read by stenographer.)

A. I have been employed by other concerns prior 939 to entering the employ of the gas company.

Q. But not as an engineer, were you?

A. It was engineering work; I don't know how they classed me.

Q. Now, let us take up this office building. Was that erected since you have been with the company?

A. It was.

Q. It was?

940 A. Yes.

Q. Do you remember what year?

A. You are referring to the general office building?

The Master: To the nineteen story building.

A. In Block 870?

Q. Yes, known as the general office, on Irving Place, 15th Street and Irving Place. When was that erected, do you know?

A. I do.

Q. Will you please tell us?

A. In 1914.

941 Q. What was on the property, do you recall, before the building was erected?

A. Other buildings.

Q. On this particular piece of property at 15th Street and Irving Place?

A. Other buildings.

Q. Of the Gas Company, or did they buy a piece of property from somebody else and build this building?

A. A portion of the land was occupied by the buildings that comprised the previous general offices of the company. Other land to the east of that had been under other ownerships.

942 Q. Do you remember the sheet number of this property at 15th Street and Irving Place?

A. It is on Sheet No. w of Exhibit 178.

Q. Was all that property on the sheet shown in pink owned by the company, or claimed to be owned by the company at the time this office building was erected in 1914?

A. It was.

Q. And it was on this pink property that the 943
building was erected?

A. That is correct.

Q. Who designed this building, this nineteen story building, did you?

A. I designed the foundations and the structural steel work of the building.

Q. Who designed the rest of the building?

A. Do you mean the individuals, or the one who had supervisory authority over it?

Q. Well, I mean the architect?

A. Hardenbergh was the architect of record.

Q. What is his first name?

A. H. L. Hardenbergh, I think. 944

Q. Here in the City of New York?

A. Here in the city.

Q. He was the architect who drew the plans?

A. He designed the facade and the ornamental features of the building.

Q. You designed the foundations?

A. The foundations and the structural steel work.

Q. Who else was engaged in designing the building except you two individuals?

A. Mr. W. Cullen Morris had the general supervisory authority, and under him there was quite 945
an extensive staff employed on the work.

Q. Is he an architect, or who is this last man you mentioned?

A. W. Cullen Morris?

Q. Yes?

A. The engineer of construction of the Gas Company.

Q. Oh, he is the Gas Company man?

946 A. Yes.

Q. What part of the building did he design?

A. Well, he had the highest supervisory and administrative authority in the work, and I should say that the general scheme of the building might, to a large extent, represent his ideas, but it is very difficult to make a definite statement when so many people are participating in the execution of a work.

By the Master:

Q. Mr. Morris had charge of the designing of this building, except for the facade and ornamental
947 features?

A. Well, the architect, Mr. Hardenbergh was doubtless subject to his directions to some extent on that.

Q. Do I understand it, that Mr. Morris, having charge of the designing of this building, assigned you to the foundation and structural steel part of it?

A. He did.

Q. Whom did he assign to the balance of the floor construction above the foundation and to the side walls and brick work and cement work?

948 A. The masonry work, as to the thickness of the walls and matters of that kind, were laid out in the general drafting department of the company, and at this moment I do not recall the particular individuals in that very large staff that worked those things out from the requirements of the building code.

Q. Who had charge of the carpenter work?

A. The only wood in the building are the floors in the restaurant, so there was practically no car-

penter work in connection with the construction of 949
the building.

Q. In whose name were the plans filed in the Building Department?

A. H. J. Hardenbergh.

Q. So that Mr. Hardenbergh was the responsible architect who, according to the Building Department records, was responsible for the drawings, plans and specifications of the building?

A. He was the architect of record.

By Mr. Chambers:

Q. The company, I assume, has a copy of the 950
plans as filed with the Building Department?

A. Have they a copy of the particular plans filed with the Building Department?

Q. Yes.

A. I don't know.

Mr. Chambers: I ask Mr. Ransom to produce in court the plans of this building.

Mr. Ransom: Well, the record may show that request. Naturally I have not been carrying them around with me.

Mr. Chambers: I suppose you haven't them in your pocket, but I ask you, will you produce 951
the plans?

Q. You said the building was erected in 1914. When was it begun, when did you begin it?

A. Why, that is hard to state.

Q. Do you want to refresh your recollection by examining some records of the company? Now, I would like to have this exact as to when that building was begun?

952 A. What do you regard as the beginning of the work?

Q. When they began construction work?

A. Oh, when they began construction work?

Q. Yes. Well, let us go back a little bit. When did they first commence to have plans prepared? When were they first committed to the proposition of building the building?

A. Well, being committed is an executive matter.

Q. Well, was it several years before 1914?

A. Oh, yes, I think——

Q. Was it as far back as 1907?

953 A. I don't think so. I think it was later than that. It might be. It is in my memory that I have heard discussions from time to time——

Q. Who would know the most about that?

A. I don't know what everybody up there knows.

Q. What?

A. I don't know what everybody up there knows.

Q. Well, you are employed by the company in this capacity of construction, and it seems to me you ought to be able to tell us who in this great army of employees would know when that building was first talked of?

954 A. I haven't an idea who would know when it was first spoken of.

Q. When were the plans completed?

A. You mean the last petty detail of the building?

Q. When were they filed with the Building, or whatever department it is that is the recipient of the plans?

A. Why, I do not recall when they were filed.

Q. Was it as far back as 1910? 955

A. Oh, no.

Q. 1911?

A. I don't think so.

Q. Can you examine the records and give us that information?

A. Why, the Building Department has the record. I don't know that we have any record.

Q. So has the company, hasn't it?

A. I don't know whether the company has any record of when the plans were filed.

Q. So you haven't any idea when the plans were completed other than stated? 956

A. You mean the plans filed with the Building Department?

Q. When the plans were ready?

A. That is, these plans filed with the Building Department, when they were ready?

Q. No, when the plans were ready?

A. Which plans, the plans that were filed with the Building Department, or other plans?

Q. We are only talking about one set of plans, the plans for the nineteen story office building. That is what we are talking about, and I am trying to find out about when those plans were completed, not when they were filed with the Building De- 957 partment, because you say you don't know, but when were the plans completed?

A. What I need to know is if you are inquiring about the plans, when the plans which were filed with the Building Department were completed?

Q. I am talking about the plans for this building.

958 By the Master:

Q. Were there any other plans for this building than those filed with the Building Department?

A. The Building Department does not require plans filed in the same elaborate detail as is necessary for the construction of the building, and my recollection would be that the plans were completed, oh, say, 1914, in a general way.

Q. Did you participate in the building of the structure?

A. I did.

Q. When was the foundation dug?

959 A. You are speaking of the whole 300-foot building now?

Q. I am speaking about this building?

A. I should say the main part of the excavation was under way in 1913, that is, taking the main part of the excavation.

Q. When did you begin to tear down the structures that were on the site preparatory to erecting this building?

A. I don't recall. That would have to be looked up.

Q. You can find that information, can you?

A. I would refer you to counsel on that request.

960 I am here to tell you what I know.

Q. Are you going to fall back on the proposition that you have to consult counsel for the complainant?

A. I didn't say I was going to consult him, I referred you to him.

The Master: Mr. Chambers, I shall rule that the witness is only required to state what he

knows. If any records are required you will have to get them in another way. 961

Mr. Chambers: It seems to me we have a right to have them produced. In the trial of this case we don't know of all those employees who have certain knowledge that we want to get.

The Master: If you will tell me what you are trying to find out——

Mr. Chambers: I want to find out all about when this building was built.

Mr. Ransom: May I make a statement on that?

The Master: No.

Mr. Ransom: I wish to make an offer on behalf of the complainant. 962

The Master: No.

Mr. Ransom: I think the record should show it.

The Master: I don't think so. I am going to rule that you can interrogate the witness as to his knowledge and recollection or understanding of any matter with reference to which he has testified. He says that there are documents that must be referred to to get particular dates and particular information. I will let you ask him where those documents are, and in whose possession they can be found. 963

Mr. Chambers: I may have to ask him to come back.

The Master: That is the point I am after. I want the examination to proceed so far as this witness is able to testify so that the examination may be completed. Whether anybody wants to recall him later on may be another matter. I am not going to direct the

witness to go and look up information from records when the plans and records can be subpœnaed. The records of the company can be subpœnaed. It is easy enough to find out when plans were filed.

Mr. Chambers: We want to know when the building was begun and when it was finished. It all enters into the price of material.

The Master: That is easy enough to find out from the inspectors of the Building Department.

Mr. Chambers: Is it?

The Master: I know it is.

Mr. Chambers: They may never put a man on here that knows as much about it as this man knows.

The Master: I want to get everything he knows. The point I want to make, Mr. Chambers, is this: I do not want to have witnesses called upon to go and look up records and come back. I want you to exhaust this man's memory and knowledge.

Mr. Chambers: I submit that in a rate case where we know nothing at all, as we sit here, we have no knowledge at all of this Company's business, we have not examined their books, their buildings or anything, we have had no opportunity, we have had no permit. Of course, we are in a position where we are obliged, under the rulings made here, to acquire all of our knowledge and information from the witnesses as they are produced, and that without any previous preparation. He calls a witness here, and all we know is what the witness testifies to on direct examination.

The Master: Exhaust his memory and recollection and knowledge. 967

Mr. Ransom: May I say a word?

The Master: Just one moment, please. When a question comes up as to the necessity for getting additional information from the records of the Company, we will take that up when we reach it.

Mr. Ransom: Mr. Chambers is making a statement on behalf of the Attorney General, that he has not examined the property, that he has not examined the books, and has not had an opportunity to do so, and the like. The complainant notified the Attorney General of 968
the State of New York last February, and a number of times since, that the property and the plants and the books and the records and the vouchers and everything else connected with the construction work of this Company were open, freely and fully and at all times, to the inspection of the defendant, and their authorized representative in this case. That offer was made to all the defendants then, and the offer was replied to, that is, the receipt of it was acknowledged at the time on behalf of the Attorney-General. There has been some examination of books and records and books 969
and vouchers on behalf of defendants in this case, including the former case, by a representative of the Public Service Commission, who is now acting in connection with the Attorney General in the defense of this case.

The Master: Now, I am going to interrupt you.

Mr. Chambers: I would like——

The Master: One moment, Mr. Chambers.

970 Don't you gentlemen see that a discussion between you here is outside the record that is being put in before me, and does not help me in this case at all?

Mr. Hayward: Not at all, your Honor; but, if you please, you always wait until the other side makes their statement, and we want to answer that as it went in. We would not be answering it unless he started it.

The Master: Here is what happened: I tried to stop Judge Ransom; I tried to stop Mr. Chambers, and Mr. Chambers insisted on making a statement. Judge Ransom is insisting
971 on answering it, and Colonel Hayward insists on replying. I am going to have this discussion fully spread on the record, and try to stop any more of it in the future, because it will not help this Court decide the issue.

Mr. Ransom: I have not finished that statement.

The Master: All right, you finish your statement and let counsel get this off their chests. But it does not help us a bit. You make one statement and they make another statement. I am going to be governed by the testimony in the case.

972 Mr. O'Brien: In the Knoxville case in the Court of Appeals, they said there must be a frank disclosure. If we do not have a frank disclosure from the complainant, if they won't give us the inventory and the original costs, we want the record to show it as we progress.

The Master: I am going to see to that, and if they do not give you a frank disclosure, and the Court says they shall give you a frank

disclosure, they are not going to be helped here 973
in Court. Finish your statement.

Mr. Ransom: In behalf of the complainant I desire to say as to this thing that has been brought up by Mr. Chambers claiming they have had no opportunity to examine the plants or the vouchers or the records or the properties of this company, that on the 10th of February, by a letter which I have here, Mr. Garver, of Sherman & Sterling, and myself, notified the Attorney General of the State in writing of our willingness and desire that they should proceed to do that very sort of thing. There has been at all times on behalf of this Company 974
the fullest and freest desire that these defendants and each and all of them should have access to the plant, and to the properties in all respects—have access to all of the books, accounts and records and data, and from the first there has been that complete willingness, and that continues to-day. Yesterday, in behalf of the Attorney General a request was made for the issuance of a permit, which was discussed at the close of the session yesterday, and those permits have been issued. I think I should put upon this record this communication of February 10, 1919, addressed to the
Attorney-General, which in identical form was 975
at that time sent to the defendant Public Service Commission, and at a later date was sent to the defendant Swann.

I offer it in evidence. If there is any necessity for proving that it was sent——

Mr. Chambers: Let us start, then, and offer all the chain of letters in evidence.

Mr. Hayward: If he is going to start with

976 the correspondence in this case, let us have our letters. That would be only fair.

Mr. Ransom: I will stipulate that all correspondence which has passed between the complainant and any of the defendants, shall be placed in evidence.

Mr. O'Brien: There is no question but that in numbers and volume, you have the score of the defendants, Judge.

Mr. Ransom: I will get that correspondence together and offer it at the next session.

Mr. O'Brien: The point is that the chief things asked for we have not had yet. They
977 were asked for on May 16th before Judge Mayer, and he gave you direction to furnish it, and that was a complete inventory of the property. You have been asked subsequently to give us the cost of the property, where you have it, and where you could not, to give us the estimated cost and the basis on which you estimated it. But that has not been forthcoming, yet. Those are the two essential propositions we would like to emphasize and put before you.

Mr. Ransom: I desire to put the correspondence in to show just what the situation in that respect is. If they want this original cost data, insofar as we are unable to supply it, or
978 do not supply it on this trial, let them go and get it.

Mr. O'Brien: Does that mean you are not going to furnish it?

Mr. Ransom: I said insofar as we did not furnish it on this trial.

The Master: Mr. Chambers, you want to make a speech for the record?

Mr. Chambers: I would not if you would strike out what he said.

The Master: No, put your speech on the record. 979

Mr. Chambers: In the first place, this letter of Mr. Garver's is a self-serving declaration, and we accepted it and nothing followed from it. We accepted the proposition. That is the first thing. In the second place they have been since the old case in 1907 in bringing this action. He charges now they have never enjoyed a fair return under the Act. So they have had all these years to prepare the case, and we did not know anything about it until the complaint was served.

Now, the Attorney General, when they sent 980
that self-serving declaration, which we accepted, had no money with which to make—did not have a cent with which to examine their plant or their books, even if he had an opportunity. An appropriation was made at the tail end of the Legislature of $50,000 for all these gas cases, and that was promptly vetoed by the executive. Then in the last closing days of the Legislature $50,000 more was appropriated, and we have used some of that in one of the cases. That is to cover all of the cases.

We did not have, and never did have, sufficient moneys to make an extensive examination of the plants, books, etc., in the short time allowed. They have had ten years in which to prepare. In the third place, not a single record or paper was furnished, according to my records, until May 26th, and from then on we have been calling upon them to furnish us with a complete inventory of their property. To this minute it has not been furnished. 981

982 So it seems to me, if I may use the slang phrase, our skirts are clean and we have done everything we could do to facilitate the trial of this case.

The Master: Now, Colonel Hayward, do you want to make a statement?

Mr. Hayward: Yes.

The Master: Proceed.

Mr. Hayward: I do not want to have it called a speech.

The Master: I said a statement.

Mr. Hayward: I think we want to concur in what Mr. Chambers has said, except that we will go a step further and say that as far as
983 the Public Service Commission is concerned, they have had no assistance with which to make this investigation, except the usual staff, which has been more than engaged in other matters. The Master will understand the reorganization of the Commission occurred during this period of time, which has prevented any orderly sequence to their work up there. There has not been a nickel at the disposal of counsel for the Public Service Commission, with which to make this investigation, and to have complied in any degree with any of the suggestions con-
984 tained in Judge Ransom's letters or Mr. Garver's letters, would have been to make a blanket investigation of this Company—an impossible thing to do with the means at hand, or even with a fairly large sum at hand. Throughout the entire course of this proceeding Judge Ransom has gone on the theory that the minute he filed his complaint the burden of proof in

this case shifted to the respondents, to the defense. 985

The Master: If Judge Ransom had any such idea, of course, he was mistaken.

Mr. Hayward: In that connection, if your Honor please, we have constantly—and the record will bear me out—and before Judge Mayer and in this correspondence, urged the complainant to outline the theory of his case, to outline their theory and claims of cost, to show us what property they contended was used in the public service and usable properly, in order that our investigation might go along orderly lines and without lost effort. To just 986
simply say they have opened their office buildings and their plants in such a magnanimous way, the Master can understand means nothing. We have had no theory, we have had no inventory, we have had no invoice—we have had nothing on which we could make a sane and intelligent investigation of this Company's property, in such a way as to carry out our duties to the public and to the people who would be paying the money to make this investigation. The burden has not shifted in this case; it is still on the complainant. It seems to me we have a right as to these features, many 987
of which may be surprises to us, are shown to the Master, to have such time as is reasonable, and such opportunity as is reasonable to make our investigation with a view to answering or cross-examining. That would be a fundamental principle of fairness.

The Master: We will take up these situations as they develop. Do you want to say something, Mr. O'Brien?

988 Mr. O'Brien: Your Honor, I will say briefly what I have to say, and I think I have said something of it before. That is this—and first, generally speaking, in the rate cases the complainants spent years in preparation——

The Master: I appreciate that.

Mr. O'Brien: To illustrate that, in the case of——

The Master: Let me interrupt you just a minute, Mr. O'Brien. I appreciate the difficulties of the defendants in this case. It is generally known that the Attorney General has been handicapped by lack of appropriation, and
989 that he has had his difficulties with the Legislature in getting money. I think it likewise is generally known that the City of New York, which, as I understand it, has the power to supply the funds to the Public Service Commission, has not——

Mr. O'Brien: They are not required under this Act, your Honor. That is a state matter.

The Master: However that may be, I do not want to misstate the facts; but, putting it in another way, I think I understand the Public Service Commission's troubles in getting the necessary money. I also have in mind the troubles of the District Attorney of a County,
990 having troubles of this kind in getting money. I understand all those things and I am going to keep it in mind and as I tried to say many times, will try to facilitate everybody's case, and see that there will be a thorough investigation into the right of the Gas Company to maintain this action.

Mr. Ransom: Your Honor, I am obliged to take an exception to the statement that there has been any handicap or any difficulty on the

part of the Attorney-General, so far as funds 991
are concerned, or that he has been unable to go ahead with what should have been done; or that the Public Service Commission has been unable to go ahead with what should have been done.

The Master: I did not say that at all, Mr. Ransom.

Mr. O'Brien: The rebuttal can come in afterwards to that.

Mr. Ransom: I want to note my exception.

The Master: All I mentioned is this: whether the Attorney General's office or the Public Service Commission or the District 992
Attorney have or have not had the opportunity, whether they have or have not had the facilities, I know from general repute the efforts made by the Attorney General to get appropriations toward the expense of this litigation, and there is not any blinking at the fact that it is difficult for public officers to get appropriations to meet the expense of these litigations. It may well be without the appropriation they may have had sufficient facilities to do it; I don't know.

Mr. Ransom: There is no evidence in that respect, and I am obliged to take an exception.

The Master: Of course, this discussion has 993
no place in the record. It does not help us to reach a conclusion one way or the other.

Mr. Ransom: If we were not accused by this defendant of not having made full disclosure or given full opportunity, I should not have brought it up to-day.

The Master: You have been accused of it, and you will keep on denying it.

994 Mr. Ransom: That correspondence will show——

Mr. O'Brien: As to that correspondence, now, we are not going to have that correspondence school method of trying this case.

Mr. Ransom: We submitted to these defendants a large part of our exhibits in this case.

The Master: I do not know anything about it. Your statement, Judge Ransom, does not help us any.

Mr. Ransom: It does not.

The Master: The position has been taken, and it simply accentuates what I said at the outset. These discussions and arguments do
995 not help us a bit. This case has got to be tried out, the Consolidated Gas Company has got to prove its case. There is not any shifting of proof in this case; the Gas Company has got to show it is entitled to the relief asked, and in the course of this case if it becomes necessary to give the other side detailed inventories in its possession or information under its control, it is going to give it. Whether it has given it before, or has not, makes no difference, it is going to give it now, and if it is going to delay this case to give the other side an opportunity to examine them, I am going to give them the
996 time.

Mr. O'Brien: If your Honor will indulge me, in this case I will have what I have to say in a few minutes. We have met before, and have had the experience that we have now, the statement of the complainant, that here are the books, here the records, come on in, the water's fine, the city is yours, take it; but we are not getting what we want, and they could give it

to us in compact form fairly and expedite our examination. We do not want the schedules they see fit to hand us. We say give us a complete inventory of your records. Judge Mayer on May 16th told them to furnish such an inventory. 997

The Master: Let me say there that I do not care whether it is true or not. Of course, none of you gentlemen agree on these things. I want to say to Mr. O'Brien that if a complete inventory has not been furnished, it may have the result of delaying this cause, which is what they do not want. As I understand the situation they have been threatening this case for trial; they insisted on this order, bringing it on before me in the middle of the summer. They insisted on this case being expedited so that it would be finished in the middle of October. If they have been foolish enough, having that in mind, not to give you the information you are entitled to and the Judge directed that you should have, it is going to delay the hearings later on, and that is up to them. 998

If they want to facilitate this matter, they should give you what will facilitate it. It will delay it, that is all, but you shall have it. If I cannot finish this case in two months or two months and a half, if they have not given you the matter they should have given you—and I am not saying whether they have or have not—it is going to take four months, that is all. 999

Mr. O'Brien: I want to say for the record, as representing the District Attorney, that the District Attorney, of course, was in the case as described by Judge Mayer in his decision, on the motion of the City of New York to inter-

1000 vene. He described there the scope that he w
be expected to fill, and it has already come
in the discussion of the several motions bef
Judge Mayer just what part the District
torney played in the original case, so that
the beginning one would hardly say that
District Attorney would be warranted or ev
could nurture the hope that he would get a
of money in the beginning to hire experts.

When we got in a little bit further, and
motion of the city to intervene was denied, a
the District Attorney asked the Corporati
Counsel to represent him, we were imme
1001 ately taken off any preparation in order
meet the attack made by the complainant u
the proposition could ask Corporation Coun
Burr to represent him. We had to go in a
meet them, and they tried their best to k
us out. Through the interim, to a large
tent through their own action in trying
keep the District Attorney out, being rep
sented by Mr. Swann, time was taken up a
there was not a record on which the Distr
Attorney could go ahead and spend money a
obtain experts. Even if they could, it wo
take an infinite time to go into this case. F
1002 and Bacon took months to get into this ot
case with twenty men, twenty engineers,
get up the basis of the complaint in the acti
which they have just drawn. I dare say bef
we get through with this case, your Honor w
find the complainant in this case has been p
paring for three years, with this case. W
until we have their experts on the stand
find out when they began their examinati
and get the correspondence on those thi

and the records out of their office; wait until 1003
we get the books in their office and the reports made to them by the various experts who have been consulted by them, and your Honor will find they have taken three years to prepare this case and they want the city and the other defendants here to confine their case to three months' preparation.

The Master: The trouble with that is, Mr. O'Brien, that these matters were apparently threshed out before the order referring this to me, and I have not any jurisdiction of it.

Go ahead, Mr. Chambers.

Mr. Chambers: There is this order to show 1004
cause returnable at 10:30.

The Master: You are not in that, are you?

Mr. Chambers: Yes, I have been served this morning with an order to show cause. Would you like to see it. The Attorney General is served with the order to show cause. I would like to adjourn for this motion.

Mr. O'Brien: I would like a recess until the motion——

The Master: Are you going to argue that motion?

Mr. O'Brien: I do not think I am going to argue it.

The Master: Then I do not think there is 1005
any necessity of adjourning this case.

Mr. Chambers: I would like to appear there and argue for the Attorney General.

Mr. O'Brien: Your Honor, I find it necessary to be present before Mr. Justice Manton at 10:30 upon the hearing of the order to show cause why a stay should not be granted in this case. I will ask that an adjournment be taken

1006 until the completion of that argument. I understand counsel to object to a recess b taken to enable counsel to be present at argument?

Mr. Ransom: The complainant does not any reason why an adjournment should taken in this case.

Mr. O'Brien: That means you object?

The Master: I think I will have to dec a recess. Mr. Chambers is entitled to an op tunity to go over there. We will declar recess, say until 11.30.

1007 Mr. O'Brien: We had better make it, I th a quarter to twelve. Make it twelve o'cloc

Mr. Hayward: We will come back im diately here.

The Master: I will adjourn it until 11.30 hold it until you come back.

RECESS

The Master: You were on the point, Chambers, as to when the plans were actu completed for the construction of that bu ing.

1008

CROSS-EXAMINATION BY MR. CHAMBERS CONTINU

Q. You said you did not know that—you did know when the plans were completed, regardless whether they were filed with the City?

A. I think I said that in a general way in 191 all plans.

Q. 1913. You said 1913.

A. I think I said all plans were completed

1914. If it was 1913, I meant the end of 1913; if I said 1914, I meant around the beginning of 1914. It would refer to the same period of time. 1009

Q. Who was the contractor that had the job, or was it divided up into a number of contracts?

A. Let us connect up. We are talking about the general office building of the Consolidated Gas Company?

Q. Yes, all the while. When I change I will apprise you of the fact?

A. The general contractor for the building was the George A. Fuller Company.

Q. Was the contract general so it covered the entire structure? 1010

A. It was.

Q. And do you remember when the contract was awarded or entered into between the Fuller Company and the complainant?

A. I do not.

Q. It was a certain contract, I take it?

A. It was.

Q. And no doubt that will be among the files of the company's papers?

A. I presume they have it in their possession.

Q. When was it completed, the building? The same building we are speaking of? 1011

A. Well, several years later we made an extension to it.

The Master: No, when was the building completed?

Q. That contract. That is a simple question, when was that building completed, not any additions in later years, but under that contract?

A. Why, I should say about the end of 1914.

1012 Q. Before the war began in Europe, wasn't it?

A. No, the war in Europe began about the first of August, 1914.

Q. When was it?

A. What?

Q. Was it completed before that date?

A. Why, substantially completed, yes.

The Master: It was started about the first of the year?

The Witness: No, I said the work was started back in 1913.

Q. Where was the company's office, the main office building before that? Where was the main
1013 office before that building was ready?

A. On the southwest corner of 15th Street and Irving Place, then known as 4 Irving Place.

Q. Was that demolished, that building?

A. It was.

Q. What was the purpose of erecting this building, as an office building to rent, or what?

A. I don't know what purposes were in the executive minds.

Q. You don't know?

A. I don't know.

Q. It not only accommodates this complainant,
1014 but also a number of other concerns, does it?

A. Some other concerns.

Q. Tell me what other concerns have offices or are lodged in the building, aside from the complainant?

A. I don't believe I could tell you all of them. I would only know certain ones.

Q. Let me exhaust your knowledge. Tell me the ones you do know?

A. The New Amsterdam Gas Company. 1015

Q. Is that related to the complainant in any way?

A. I don't know. The New York Mutual Gas Light Company.

Q. Do you know whether that is related to the Consolidated?

A. I know nothing of intercorporate matters.

Q. Well, I am asking you.

A. I don't know.

Q. Then you do not know whether they are related in any way. The next. There are two you have named, the Mutual and New Amsterdam?

A. The Standard Gas Light Company. 1016

Q. Is that related in any way to the Consolidated?

A. The same answer.

The Master: You mean you do not know?

Q. You mean the same answer as to the last question—that you do not know?

A. I don't know about intercorporate matters.

Q. Any others? There are three; any others?

A. The Astoria Light, Heat & Power Company.

Q. Are they related in any way to the Consolidated?

A. Same answer. 1017

The Master: Do not say "same answer". Do you know?

The Witness: I do not know about intercorporate matters.

The Master: Just say whether you know a particular company is related. It will save time, Mr. Alrich.

Q. Are there any others?

1018 A. The New York Edison Company.

Q. That is an electric light corporation, mainly?

A. It is.

Q. Is that related to the Consolidated?

A. I do not know.

Q. Any others?

A. The United Electric Light & Power Company.

Q. What is that, an electrical corporation or gas?

A. As they supply me, I judge it is electric.

Q. And is that related in any way to the Consolidated?

1019 A. I do not know.

Q. Any others?

A. That is all that occur to me now.

Q. Anybody else in that building, any company, corporation or individual in that building other than gas, light, and electric companies?

The Master: That you know of.

A. There may be. I don't know; I am not familiar with those matters of tenancy.

Q. But so far as you have told me up to the present time it seems to be the general office building for a number of large gas and electric light com-

1020 panies?

A. That is correct.

Q. The home office of these companies?

A. That is my understanding of the situation.

Q. It is the home office of this Consolidated, is it?

A. It is.

Q. Do you know the respective floors occupied by these various companies?

A. In a general way, Mr. Chambers. 1021

Q. You have told us already that a part of the building is occupied by the Consolidated Gas Company, the complainant, haven't you?

A. Yes.

Q. Let us find out about that. You said that the Consolidated Gas Company occupied a portion of the ground floor. Do you mean the first floor above the basement?

A. The floor substantially at a level with the sidewalk. That floor which corresponds to the sidewalk level.

Q. As to the basement, what is in the basement generally, the heating apparatus of the building? 1022

A. As I described yesterday, there is the heating plant.

Q. Let us stop just a minute. The heating plant to heat the building?

A. For heating the building, yes, sir.

Q. Coal furnaces, say?

A. They are.

Q. Heated by coal, isn't it?

A. Yes.

Q. That heating apparatus, then, is used in common by all these other companies in the building?

A. I should assume so, yes. 1023

Q. What else is in the basement?

A. The vacuum cleaning apparatus.

Q. You would say that that is used generally by the occupants?

A. I do not know what arrangements they have with the tenants.

Q. Well, the vacuum cleaning apparatus is to keep the building sanitary and clean, isn't it?

1024 A. That is the purpose, yes.

Q. The whole building?

The Master: It is so built that it is built for common use in the entire building; isn't it?

The Witness: I had nothing to do with putting the heating plant in the building.

Mr. O'Brien: Didn't you say you drew the plans?

The Master: Just a moment, Mr. Chambers is cross examining.

Mr. O'Brien: He might cover this question now and save that much time. He said he drew the plans of the building.

1025 The Witness: I said the plans of the foundation and structural steel work, and it is an awful big jump from structural steel work to vacuum cleaning.

Q. Well, you pretended to tell us yesterday floor by floor and building by building all over this city the seventeen different pieces of property, and you pretended to tell us with a good deal of detail, didn't you, what structures were in the buildings and what they were used for?

A. I recall my testimony.

Q. What else is in the basement of that building?

1026 A. The vacuum apparatus is for the purpose of keeping the entire building clean; it is not used by the Consolidated alone, is it?

A. I don't know who uses it.

Q. So there is one thing that you do not know about, isn't there?

The Master: I won't allow that kind of question, Mr. Chambers. Find out what he does know.

Q. What else is in the basement? 1027

A. In the boiler room there are some incinerators for burning up rubbish accumulated in the building.

Q. You don't mean to have the Court understand that you know all the purposes and uses to which these buildings are put that are on this map, Exhibit 178, do you?

A. I know in a general way the uses which the Consolidated Gas Company makes of the properties on Exhibit 178.

Q. Does the Consolidated Gas Company use this vacuum cleaning apparatus?

A. I don't know. I am not the janitor of the 1028 building.

Q. This last, the incinerator, did you say?

A. Incinerator, yes.

Q. What is that used for?

A. Burning up rubbish.

Q. From the entire building?

A. I don't know.

Q. Or just from the Consolidated floor?

A. I don't know.

Q. What else is in the basement?

A. A show room for gas appliances.

Q. For all the companies you have named? 1029

A. Well, I would not claim to know. My impression is the Consolidated only.

Q. Well, do you know?

A. I don't know.

Q. Have those other companies any show room or display floor in the building that you know of?

A. They have.

1030 Q. What floor is that on, or do they each have a separate place?

A. The Mutual Company have some show room space in the easterly extension, and as to the other companies, I do not know what show room space would appertain to them.

The Master: Do they, in fact, display any appliances?

The Witness: I don't know to what extent, as I said, other fixtures on show and appliances, belong to them.

Q. Do you know what these fixtures in the show room or display room consist of generally?

1031 A. Lighting fixtures, appliances such as——

Q. You mean chandeliers, mantles?

A. And portable lamps and things of that kind.

Q. Gas stoves, gas ranges?

A. Correct.

Q. Gas ranges?

A. Yes.

Q. What else?

A. Heaters.

Q. Gas heaters?

A. Gas heaters, yes.

Q. Anything else? Vacuum cleaners?

1032 A. Gas vacuum cleaners?

Q. There is not anything, such thing, is there?

A. I don't know.

Q. Any irons?

A. Yes, I have seen gas irons.

Q. Gas irons?

A. Yes.

Q. Anything else?

A. Not that I recall now down in the basement.

You are talking about the ground floor now, are you? 1033

Q. I am talking about the show room in the basement.

A. Well, in the basement I see miscellaneous gas appliances for roasting peanuts and making candy, and other things, but some of them—I am not familiar with them.

Q. That is not your affair?

A. That is not my affair.

Q. Would you know whether these appliances, or some of them, are owned by corporations or persons other than the Consolidated, or only their display? 1034

A. I would not know.

Q. You would not know one way or another on that?

A. I would not have a ghost of an idea.

Q. What else is in the basement?

A. The vaults of the elevators in the buildings; that is, the elevator pits go in the basement and occupy some space. They are inclosed in brick enclosures.

Q. I assume that the elevators run the entire height of the building, do they, and furnish service to all floors? 1035

A. They do.

Q. Is there anything else in the basement?

A. The refrigerating machinery.

Q. What is that used for?

A. For the refrigeration in the restaurant on the top floor.

Q. Now let us see what there is about that. Does the Consolidated Gas Company operate a restaurant for its employees?

1036 A. It does.

Q. Do the other employees of the other companies eat there too? Take the Standard and the Mutual?

A. I don't know what arrangement they have with the other companies.

Q. I did not ask you that.

By the Master:

Q. Do you know whether the other men eat there?

A. I have seen employees of the other companies
1037 eat there. I don't know what their arrangements are.

By Mr. Chambers:

Q. Well, you know they eat there, don't you?

A. I do.

Q. And you are acquainted with some of the employees of the Mutual and the Standard and the Edison?

A. I am.

Q. You all eat there, don't you, practically everybody employed in the building?

A. No; no, I should not have that conclusion
1038 that they all eat there.

Q. Who runs the restaurant, the Consolidated, the Mutual or the Standard, or who?

A. The Consolidated Gas Company. Their name is on the ticket, so I formed that conclusion.

Q. Do you pay for your meal?

A. I do.

Q. Each one, like any restaurant?

A. That is correct. You have got to come across.

Q. What I mean is, they don't furnish meals as 1039
a part of your salary, do they?

A. They do not. That has been very far from my experience.

Q. How do you find the prices there as compared with outside?

The Master: That is ruled out.

Mr. Chambers: Well, I think that is material.

The Master: No, I do not think so.

Mr. Chambers: Whether they give the employees a deduction or not? I take an exception.

Q. What portion of the building does the 1040
restaurant occupy?

A. The nineteenth floor.

The Master: Where is the kitchen, up on that floor too?

The Witness: It is on that floor.

Q. Is there any other portion of the building devoted to the restaurant branch of the business, except the refrigerator in the basement and the restaurant on the top floor?

A. I don't know.

Q. Is the entire top floor occupied by the restaurant? 1041

A. And the kitchen?

Q. Yes, I mean the restaurant and what goes with the restaurant.

A. It is.

Q. Is that right?

A. Yes.

Q. Is there anything else in the basement other than you have described?

1042 A. There is a vault there in which the electrical instruments are, where the services come in from the streets into the building.

Q. Electrical instruments?

A. Yes, having to do with the service for light and power in the building.

Q. What company controls that electrical apparatus?

A. That service? I don't know.

Q. It is not the Consolidated, is it?

A. It is the service of the building. You mean what company furnishes the power?

Q. Oh, it is the electric light service of the build-
1043 ing?

A. Of the building.

Q. I did not understand you. Anything else? Just another question: That electric light service furnishes electric lighting for the whole building?

A. I don't know.

Q. Anything else in the basement?

A. A vault in which the fuel for the steam boilers is stored.

Q. For the heating of the building?

A. For the heating of the building, yes.

Q. For the entire building?

1044 A. I presume they heat the entire building, yes.

Q. Anything else in the basement?

A. The vaults.

Q. Yes, what about the vaults? What is in the vaults?

A. I do not know what is in the vaults.

Q. What kind of vaults are they?

A. Bank vaults, resembling those of a bank.

Q. Well, you answer as if you presume I know.

I know nothing about it. Describe them. Do you 1045
mean they are fireproof vaults?

A. I do.

Q. In which to keep money and securities?

A. Valuables.

Q. And those are there in the basement or in the cellar?

A. They are.

Q. What companies have charge of those; which company?

A. The Consolidated Gas Company.

Q. None of the other companies use those?

A. I don't know.

Q. Have you covered the entire basement? 1046

A. As far as I recollect, yes.

Q. Now, the next floor is occupied, is it, entirely by the Consolidated?

A. The ground floor you are speaking about now?

Q. Yes, I mean the floor immediately above the basement. I have never seen this building.

The Master: We will refer to it as the ground or first floor.

Mr. Chambers: The ground or first floor.

A. No, it is not entirely occupied by the Consolidated Gas Company. 1047

Q. You said yesterday, if I understood you correctly, that three-quarters of this, in your opinion, —three-quarters of this ground on the first floor was occupied by the Consolidated Gas Company?

A. Yes. That was just a hurried estimate.

Q. A hurried estimate?

A. Yes.

Q. Well, you must have had some basis for it surely.

1048 A. Just my mental impression that I carry along that about three-quarters of it is occupied by the Consolidated Gas Company.

Q. Do you know the floor space?

A. I do not.

Q. Did you when you said three-quarters of it was occupied by the Consolidated?

A. I was looking at the plan pictorially. I was considering it pictorially.

Q. The building occupies the entire area, does it, of the shaded portion on sheet 2 of Exhibit 178?

A. Substantially the entire space.

Q. Who else occupies any floor space on the first
1049 floor, the ground floor?

A. The New York Edison Company.

Q. How much do they occupy, or don't you know?

A. I have no computation.

By the Master:

Q. Do they occupy the balance of a quarter, of the space?

A. No, they do not. They do not occupy the remaining balance.

Q. About how much of the remainder?

A. You see, I really have no dimension plan of
1050 the building in front of me.

Q. I mean your impression; one-half of the remainder, or three-quarters of the remainder?

A. Oh, probably three-quarters of the remainder, or two-thirds of the remainder.

By Mr. Chambers:

Q. Three-quarters of a quarter?

A. Something like that.

Q. What other companies occupy any part of the 1051
ground floor?

A. The New Amsterdam Gas Company.

Q. And how much do they occupy?

A. Why, it is quite small. I don't think I could undertake to state it in square feet or proportions.

Q. Anybody else occupy any portion of the ground floor?

A. The New York Mutual Gas Light Company.

Q. You have now named three other companies in addition to the Consolidated?

A. Yes.

Q. Any other companies?

A. There are none. 1052

Q. What has the Consolidated on the ground floor?

A. What is officially known as the Commercial Branch 2 and a show room for gas lighting fixtures and appliances.

Q. Well, what do you mean by commercial branch of the business?

A. It is the office with which the consumers deal in making applications for service, in paying bills and renting appliances—matters of that character.

Q. And it also has its display room, you say? In which the same kind of apparatus is sold, like 1053
gas ranges?

A. That is correct.

Q. *Et al*—that we have mentioned?

A. That is correct.

Q. What have the other companies there generally, if you know—the Standard and the Mutual?

A. Their commercial offices. Beyond that I have no knowledge of their activities.

1054 Q. You have given me, have you, the names of the various companies that occupy the ground floor?

A. I have.

Q. The next floor above that, the second floor, we will call it. Who occupies that?

A. The Standard Gas Light Company occupies a part and the New Amsterdam Gas Company occupies a part.

Q. How much of that floor does the Standard occupy? Did you figure that out?

A. I don't know.

Q. Do you know the floor space of it?

A. I don't know.

1055 Q. You said the Standard and the Mutual?

A. I did.

Q. Do you know how much floor space the Mutual occupies?

A. I do not.

Q. Or the Standard?

A. I do not.

Q. What does the complainant have on the second floor?

A. They have a room there for showing lighting fixtures, some special arrangement of displaying lighting fixtures.

1056 Q. Do you mean gas lighting fixtures?

A. Gas lighting fixtures, yes.

Q. Devoted exclusively to that?

A. As far as I know.

Q. You mean appliances that are sold outsiders?

A. Yes, lighting fixtures.

Q. Like mantles?

A. Yes, mantles.

Q. And shades?

A. Yes, lighting fixtures in general. 1057

Q. Like shades?

A. I am not familiar with the transactions there at all.

Q. Like shades?

A. I don't know whether they would sell you shades or not. I see the stuff displayed, and I don't know what they sell.

Q. Chandeliers?

A. I don't know.

Q. Has the Consolidated anything else on the second floor other than you have mentioned?

A. Not as far as I know.

Q. Now, the third floor. You said yesterday that 1058 was occupied by the clerical force of the complainant; is that right?

A. Yes.

Q. Any other companies on the third floor?

A. I don't know.

Q. Do you know the area of the third floor by the square foot?

A. I do not.

Q. Or square yard?

A. I do not.

Q. You don't know whether the Consolidated, then, occupies the entire third floor? 1059

A. I know that they don't occupy the entire third floor.

Q. And you are not able, are you, to give us the relative proportion occupied by the Consolidated and other companies?

A. I am not.

Q. Now the fourth floor. I think you said yes-

terday that the Consolidated occupies no floor space on the fourth?

A. I don't think so. It is possible they may, but I have not got clearly in mind——

Q. Now, wait. You do not think you said that, or you do not think the Consolidated occupies any part of it?

A. The record will show what I said, but my present impression is that they may possibly have some space on that floor.

Q. As you sit there now, you don't recollect, do you, that they do occupy any part of it?

A. I have an impression that they either do or did at one time.

Q. You were called here to describe what portion of the building they occupy——

A. I was called for that reason?

Q. Yes.

A. I didn't know that.

Q. Well, you did do it?

A. I did the best I could.

Q. How about the fourth floor?

A. That is the floor you just asked me about.

Q. Excuse me; you are right. The fifth floor?

A. The fifth floor, I am not familiar with the occupancy of that floor.

Q. So you are not able to tell the Court whether the Consolidated occupies any portion of it or not?

A. I am not.

Q. The sixth, seventh, eighth, ninth, tenth and eleventh, if I understood you correctly yesterday, are not occupied in any way by the complainant company?

A. I referred to the telephone exchange being on 1063
the sixth floor.

Q. That telephone exchange is used by all the occupants of the building?

A. I do not know whether it is used by all the occupants. It is used by the lighting companies with which I have to deal.

Q. That includes the Standard and the Mutual and the New Amsterdam?

A. I have nothing to do with the Edison Company.

Q. Well, it includes the Standard and the Mutual and the New Amsterdam, does it?

A. It does. 1064

Q. Aside from the telephone exchange which you have spoken of, no part of this 6th, 7th, 8th, 9th and 10th floors of this building are occupied in whole or in part by the complainant company, is that a correct statement?

A. Not exactly. There may be some occupancy by the Consolidated Gas Company of some part of those floors, but I do not believe it would be extensive.

Q. That is the best information you can give us?

A. At the present time, yes.

Q. The twelfth floor is occupied by the Consoli- 1065
dated Gas Company?

A. It is occupied by the Consolidated Gas Company.

Q. All of it?

A. As far as I know the entire floor.

Q. What goes on there on the twelfth floor?

A. The Utilization Department and the headquarters of the meter and fitting department, the

1066 claims and arrears department, and the commercial department has a large part of that floor.

Q. You mean they have a law office there? Have they a law office?

A. Claims and arrears.

Q. Have they a law office there?

A. I don't know as I would describe it as a law office. It is the department where they handle claims and arrears.

Q. Now, is there anything else that the company has on the twelfth floor?

A. That substantially covers the twelfth floor. The pay roll department is on the twelfth floor.

1067 Q. How about the thirteenth floor?

A. The auditorium.

Q. The auditorium of the Consolidated Gas Company, or all the companies?

A. Of the Consolidated Gas Company.

Q. Don't the other companies use that?

A. I don't know what arrangement they have with the other companies about the use of that auditorium.

By the Master:

Q. Don't you see, Mr. Alrich, that that is not the

1068 question. Have you ever seen that department used by any others than the Consolidated Gas Company?

A. I never was in the room when any other company was using it except the Consolidated Company.

By Mr. Chambers:

Q. What do you hold there, lectures?

A. The annual meeting of the stockholders is held in that room.

Q. That is only once a year. Is it taken at other 1069
times?

A. We hold our departmental meetings in there.

Q. How often?

A. The engineering department once a month.

Q. What else is that used for that you know of?

A. Those are the only uses of it with which I am familiar. I am not on that floor.

Q. It seats a good many people, doesn't it?

A. I don't know what you call a good many.

Q. Does it seat five hundred people?

A. Oh, no.

Q. How many?

A. I should say probably about two hundred. 1070

Q. And it has a lecture platform, has it?

A. It has a platform.

Q. There are no offices of any kind in there, are there?

A. Not in the auditorium.

Q. Just a regular lecture place, like a theatre, with a stage?

A. A small platform.

Q. Moving pictures are held there sometimes, relating to the business?

A. Relating to the business, we have had some moving pictures showing the operation of gas 1071
plants.

By the Master:

Q. Does that auditorium take up the entire floor?

A. Oh, no, only a portion of it. I would like to correct my statement that I was never in the room when it was used by anybody other than the Consolidated Gas Company. I was there during the

1072 Liberty Loan campaign when it was used for the Liberty Loan campaign.

By Mr. O'Brien:

Q. Isn't it a fact that it was loaned out by the company for purposes other than gas business?

A. I don't know. I don't believe that they loan it to outsiders.

By the Master:

Q. What is there on the thirteenth floor besides
1073 the auditorium?

A. I think they have rest and retiring rooms for the female employees of the building.

By Mr. Chambers:

Q. All the employees of other companies, too?

A. They have the use of that room.

Q. For rest?

A. I don't know.

Q. Anything else on the thirteenth floor?

A. Yes, sir, a barber shop.

Q. The company maintains a barber shop?

1074 A. No, you have to pay the same as any other barber shop.

By Mr. O'Brien:

Q. They are occupying it, they are renting it, they are using it, aren't they?

The Master: One moment, don't answer Mr. O'Brien's question.

By Mr. Chambers: 1075

Q. How is that barber shop run?

A. Why, a man goes down there from his office and gets a shave and pays for it.

Q. Like any other barber shop?

A. Like any other barber shop.

Q. Who is in charge of this, who is the lessee or proprietor?

The Master: Or operator?

Q. Or operator. Who is he?

A. Frank D. Finni, a noble Roman.

Q. You have had your hair cut there?

A. Oh, yes; he does me every time he gets a 1076
chance.

Q. Anything else besides the auditorium and barber shop and rest room on that floor? I assume there is a manicure establishment in the barber shop, is there.

A. There is, yes.

Q. Anything else, any other room?

A. I think they have been doing some work of rearrangement on that floor with which I am not familiar.

Q. How about Turkish baths conducted there on the thirteenth floor?

A. No, we don't need them. 1077

Q. Have you given us fully all you know about the 13th floor?

A. I have.

Q. How about the fourteenth floor?

A. The fourteenth floor, except as far as the auditorium projects up into it for a space of about sixty-five feet, that entire floor is occupied by the New York Edison Company, as far as I know.

1078 Q. Then the fifteenth floor?

A. As far as I know the entire fifteenth floor is occupied by the New York Edison Company.

Q. Now, the sixteenth floor?

A. The entire sixteenth floor is occupied by the complainant, except one small room, which is the accounting department of the Astoria Heat, Light & Power Company.

Q. What business is carried on by the complainant company on the sixteenth floor?

A. The offices of the executive officers, the higher executive officers.

Q. Like whom, for instance, the President?

1079 A. Yes, Mr. Cortelyou's office is there.

Q. And the Vice President?

A. That is correct.

Q. Secretary and Treasurer?

A. Correct.

Q. Who else?

A. The accounting department and the purchasing department are on that floor, auditing department, all of those departments, the cashier's office, the stock transfer office.

Q. Are any of these officers officers of these other companies, too, like Mr. Cortelyou, do you know?

1080 A. I don't know of what companies Mr. Cortelyou is an officer other than that he is President of the Consolidated Gas Company.

Q. Well, any others? The Vice President of the Consolidated, is he an officer of any of these other companies?

A. Which officer do you mean, which Vice President?

Q. Have you a number of Vice Presidents?

A. There are three.

Q. What Vice President has his office there? 1081

A. All three of them.

Q. Well, are any of the three executive officers in the other companies that you have named?

A. Why, I think Mr. Carter is, but as to the others I am not familiar.

Q. So you would not know beyond that?

A. No.

Q. Did you ever observe whether on the door of his office it says "Secretary and Treasurer of the Mutual Gas Light Company, Standard Gas Light Company," and so on?

A. I observed that it does not say that.

Q. How about the auditing department? Is 1082
that the auditing department of the complainant solely?

A. It is.

Q. How about the other departments you spoke of—accounting department, was it?

A. Yes.

Q. Is that solely of the complainant?

A. Except so far as I referred to the accounting department of the Astoria Light, Heat & Power Company.

By the Master: 1083

Q. Which is in a separate room?

A. It is.

By Mr. Chambers:

Q. They occupy just one small room, the Astoria Company?

A. They do.

1084 Q. Now, the seventeenth floor, is that the floor you are on yourself?

A. It is.

Q. Then you ought to be pretty familiar with that?

A. Oh, yes, but there are some parts of it I never wander into; I am a busy man, you know.

Q. Tell us fully what there is on that floor?

A. The offices of the engineering staff are on that floor.

Q. Would you mind telling me the names of the engineering staff that have their offices there?

1085 A. Mr. William H. Bradley, Chief Engineer, and his personal stenographic force are on that floor.

Q. Consisting of about how many people?

A. Oh, there is a room full.

Q. Twenty-five?

A. No, I don't think it is that many.

Q. Who else?

A. Mr. George E. Woods, the engineer of manufacture of the company, and his personal stenographic force.

Q. Who else?

A. Mr. W. Cullen Morris, the engineer of construction, and his personal staff.

1086 Q. Who else?

A. Mr. James F. Hunter, assistant engineer of construction.

Q. Who else?

A. Dr. Love, the engineer chemist of the company. Also myself, assistant engineer of construction; Mr. Collin C. Simpson, the general superintendent of mains and services, together with his staff and assistants.

Q. Is that all? 1087

A. That pretty well covers it.

Q. Now, you do work, don't you, for the Standard and the Mutual?

A. You mean I, personally?

Q. Yes.

A. Oh, yes, I have worked on their construction work.

Q. All these companies you have named you do work for?

A. All of the companies that I have named, gas companies.

Q. But you received your salary from the Consolidated? 1088

A. That is correct.

Q. How about these other men you have named, don't they render services to these other companies, too?

A. Some of the other men that I have named do.

Q. So your time is not taken up exclusively, nor is the time of some of these other men you have named, with the Consolidated Gas Company property?

A. That is correct.

Q. How about the next floor? Or, have you told me everything, described all the offices on the seventeenth? 1089

A. I think I should add that the general clerical staff of the manufacturing department is on that floor; also the general clerical staff of the construction department is on that floor.

Q. You mean the construction department of the Consolidated Gas Company?

A. I do.

Q. And the clerical staff of the Consolidated?

1090 A. The clerical staff of the manufacturing department of the Consolidated.

Q. That is all now?

A. I think I have pretty well covered it.

Q. Now, the eighteenth floor?

A. The eighteenth floor is entirely the drafting room of the Consolidated Gas Company, the file room for the drawings and engineering department records of that character, the photographic department and the blue print department.

Q. Of all these companies?

A. Of the Consolidated Company.

Q. Alone?

1091 A. The Consolidated Gas Company's individual departments.

Q. You mean there is nothing—that the Mutual nor the Standard nor these other companies have anything whatsoever to do with this eighteenth floor?

A. Only as far as we might make a drawing for them, or a blue print for them; but I mean the staff of men are entirely employees of the Consolidated Gas Company.

Q. Supposing the Mutual Company wanted some blue printing done, it would be done there,

1092 wouldn't it?

A. It would.

Q. The same way with the Standard?

A. Yes.

Q. And the New Amsterdam?

A. I mean that it might be. They can go up there and have it done or they can go outside.

Q. Now, when you render services to the Standard, the Mutual and the New Amsterdam, and so

on, is any separate account kept of the amount of 1093
time you expend for these other companies?

A. There is.

Q. How is that done, speaking now of your own situation?

A. Of my own situation?

Q. Yes.

A. Well, that is estimated from time to time.

Q. Is it an estimate or is it an actual computation?

A. It is an effort to determine the actual——

Q. Supposing you spent a week upon work on the property of the Mutual Gas Company, how would 1094
that be determined?

A. I would report that I had worked a week on the property of the New York Mutual Gaslight Company.

Q. Supposing you worked two hours on one, two hours on another and one hour on another?

A. I would report the facts to correspond.

Q. Where would you send in those, to your company, or to the Mutual or to the Standard?

A. To the Consolidated Gas Company.

Q. You haven't anything to do then with these other companies so far as reporting time expended on their work is concerned? 1095

A. Nothing whatever.

Q. It is all done by the Consolidated with those companies?

A. It is.

Q. Do you keep a record yourself of the time spent by you for each company?

A. For myself?

Q. Yes.

Q. No, I turn it in.

1096 Q. It is all turned in to the Consolidated?

A. Yes. It does not interest me any further.

Q. You don't know how they apportion that, do you?

A. No.

Q. I mean apportion it between the Consolidated and the other companies.

A. I don't know.

Q. Somebody else does that?

A. They do.

Q. Now, have you told me everything that is on the eighteenth floor?

1097 A. I think everything.

Q. Have you told me all on the nineteenth, that is, the kitchen and the restaurant?

A. Yes, sir.

Q. The whole floor is the kitchen and restaurant?

A. Yes, the whole floor.

Q. And other things in relation to the restaurant?

A. That is correct.

By the Master:

Q. Where are the janitor's quarters?

A. The superintendent of the building?

1098 Q. Yes.

A. He has been moving around lately; I don't know just where he has located himself.

Q. Have they a pent house on the roof?

A. They have a pent house on the roof, but it contains water tanks and elevator machinery. There are three pent houses on the roof.

Q. Are there any janitor's quarters there?

A. No.

By Mr. O'Brien:

1099

Q. Is there a janitor in the building?

A. We have a superintendent of the building.

Q. Is he quartered in the building?

A. He doesn't sleep there.

By the Master:

Q. Doesn't sleep there?

A. He is not supposed to sleep there. If he does he had better not let us find it out.

By Mr. O'Brien:

Q. Doesn't some one sleep there during the night? 1100

A. No, they don't sleep there. They are supposed to be on the job.

Q. You know it is customary in most buildings to have a janitor quartered there with his family?

A. I don't know that such a custom exists. We have no such thing for our building.

By Mr. Chambers:

Q. I want to find out as to what time you were confining your answers to. Was it the present time?

A. These occupancies of the building were as of to-day as I gave them. 1101

Q. Since the building was erected, has there been any change in that program, or did the condition you have described a few minutes ago relate to the time when the building was completed? Do I make that clear?

A. Yes. Why, I believe that that statement would substantially apply to the first of January, 1915, it being a fact that there have been some

1102 shift, but I don't think that they would materially change the map.

Q. Now, there is another portion of the main building that I have not covered—is there nothing upon the roof?

A. Yes.

Q. What is up there?

A. Two or three pent houses up there containing the elevator machinery and the water tanks, what is called the house tanks for the building, and there is a display sign on the roof, with which you may be familiar.

1103 Q. What is that, the Consolidated display sign, or the Edison?

A. The Consolidated Gas Company built it.

By the Master:

Q. What does it advertise?

A. It reads: "Gas and Electric Light, Heat and Power."

Q. Is that all, no other words?

A. That is all, except that the builder's name is on there, as the law requires, in small letters.

By Mr. Chambers:

1104 Q. That sign, then, relates to the various companies in the building?

A. Yes.

Q. Supposed to represent them all?

A. It is.

Q. Is there anything else above or below the nineteenth floor and the basement that I have not had you describe, in the main building?

A. I don't think of anything.

Q. Now, there has some addition been built to the 1105
building, you wanted to say a little while ago?

A. I said that several years after the building was first built, about 1916, we extended it on the easterly end.

Q. How many stories up?

A. Two.

Q. How big an extension?

A. About twenty-five feet wide.

Q. Do you know the cost of this nineteen story building?

A. I do not.

Q. Without the extension?

A. I do not. 1106

By the Master:

Q. Let me ask you, is the entire building nineteen stories high, or only this easterly end of it?

A. All except the easterly extension.

Q. The easterly extension is only two stories?

A. The easterly extension is two stories.

By Mr. Chambers:

Q. Did you know the cost?

A. At any time? As the work proceeded I was in touch with the expenditures for the steel work. 1107
I don't know that I could ever claim to have known the actual cost of the building at any time.

The Master: Mr. Chambers, hadn't you better make it clear as to whether the occupancy described includes this two-story extension?

Q. What is on the first floor of this extension?

A. The Mutual Gas Light Company.

Q. They occupy the entire first floor?

1108 A. They do.

Q. And the second floor?

A. They occupy it also.

Q. Then really that extension was built, not for this complainant company, but for the Mutual?

A. I do not pretend to know the motives that brought about the building of that extension.

By the Master:

Q. The fact is that since it was constructed the Mutual has been using that extension?

A. That is correct.

1109 By Mr. Chambers:

Q. Ever since it was constructed?

A. That is correct.

Q. Do you happen to know what territory the Mutual operates in?

A. I don't know.

Q. Now, is there anything else on this Fifteenth Street and Irving Place property other than you have described, which you have just now been talking about, the nineteen story building and the two story extension?

A. That is all.

1110 Q. That is all?

A. That is all.

Q. You are acquainted with the deeds offered in evidence, you said?

A. Yes.

Q. Which cover this particular portion of the company's property?

A. Yes.

Q. Did the deeds just cover that shaded portion 1111
in pink on Sheet No. 2 of Exhibit No. 178?

A. That is all they cover.

Q. In other words, there is no property in this section of the city, Block No. 870, except that which is occupied by the two buildings?

A. I don't know that I understand that question.

Q. Well, is there any yard or land?

A. No yard or vacant land.

Q. In and around the building?

A. There is only that space required by law for the fire escapes in the rear, the stair wells in the rear of the building, which are small.

Q. Which way does that building front, on which 1112
street?

A. On both Irving Place and 15th Street.

Q. Where would the rear be?

A. This is 15th Street (referring to diagram), and these stair wells are in the rear of the building, they indent the rear of the building, but on the first floor, in the case of two of those, the building extends out under that space. In other words, the open space only applies to the building above the first floor.

Mr. O'Brien: If your Honor please, let me, with your permission, ask this question right 1113
here.

By Mr. O'Brien:

Q. You don't mean to say that the building on the whole lot, the nineteen story building, covers the whole lot—they have some considerable space?

A. Not considerable, Mr. O'Brien. With the exception of that small space which the law requires

1114 reserved in the case of all buildings unless it faces on four streets.

By Mr. Chambers:

Q. On this Block No. 870, page 2 of Exhibit No. 178, this other portion of the block in white is not covered by any of these deeds?

A. It is not the property of the Gas Company, and is not covered by any of the deeds. The building is one that could be described as covering the whole area.

By the Master:

1115 Q. Shown in pink?

A. Shown in pink.

By Mr. Chambers:

Q. Now, you say this is a steel frame structure?

A. It is.

Q. And what is the exterior

A. Stone.

Q. What kind of stone?

A. Limestone.

Q. From around this locality, or imported from Italy?

1116 A. Oh, no, I think it came from Indiana; I am not sure.

Q. And the interior, of what material is it, steel casings?

A. Steel trim, yes.

Q. Steel trim throughout?

A. Throughout.

Adjourned to Monday, July 28, 1919, at 2 P. M.

Last Complainant's Exhibit 181.

ONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 1117

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 28, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. HAYWARD (by representative), of Counsel for Public Service Commission 1118
MR. O'BRIEN, of Counsel for defendant Swann

HERBERT W. ALRICH, resumed:

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

Q. Mr. Alrich, we were still talking about the arge office building at 15th Street and Irving Place. s it not a fact that that building was not erected s a nineteen story building in 1914, or whenever was built originally? You did not tell me any- 1119 hing about that?

A. In 1914? In 1913 and 1914, it was built as ineteen stories.

Q. Nineteen stories?

A. Yes, sir.

Q. Is it not a fact that you built twelve stories rst and then added the others on subsequently?

A. That was a prior operation, prior to 1913 and

1120 1914, and was one of the group of other buildings to which I had referred.

Q. Well, the way you left it the other day you gave me to understand that this was one entire contract by Fuller to erect a nineteen story building, and a nineteen story building was erected. That is not a fact, is it?

A. The nineteen story building, 300 feet long. 300-foot building was the expression I used to indicate the particular building of which I was speaking. It was a general contract given to the George A. Fuller Company.

1121 Q. You did not say a word about any twelve story building having been erected?

A. You did not ask me the right questions for that if you wanted to know about it. You did not ask me anything about it.

Q. And because I did not ask you you did not say anything?

A. Yes. You are asking me the questions and I am trying to answer them.

Q. I was trying to find out all you knew about this building?

A. And I understood to give you that as far as your questions were directed to my knowledge and

1122 to the things you are attempting to ascertain?

Q. Let us go back and see if I can find out about it. When was the twelve story building erected of which the nineteen story building is a part?

A. I don't consent to that statement "of which the nineteen story building is a part". I will answer what you want to know. In 1910 we began the twelve story building which was about sixty-five feet wide.

Q. In 1908?

A. 1910. In 1910. At one time there, in one of 1123
your questions, I wished to put something in and you shut me off.

The Master: Do not argue with counsel; answer the questions.

Q. I want the whole fact about it. In 1910 you built twelve stories?

A. Yes, finished that building in 1911, I judge, the twelve story building.

Q. And was it completed so as to be a finished building at that time? Did you put a roof on it?

A. Oh, yes, but there was contemplated an extension to it. 1124

Q. But the building was completed unto itself in 1910 as a twelve story building?

A. 1910 or 1911, that building operation was completed as a unit of a possible future building.

Q. Who had the contract for the erection of the twelve story building?

A. The George A. Fuller Company.

Q. The same company?

A. Yes.

Q. Did you design the foundation for that?

A. I did, and also the structural steel work.

Q. How large a building was that twelve story building? Could you tell me how large a lot it 1125
occupied?

A. Yes, 65 feet wide and 184 feet long.

Q. Looking at Exhibit 178 (handing to witness)?

A. In a general way it occupied all of Lot 56 and a part of Lot 54. I am speaking in a general way. I have not in front of me a dimension map, but that is my recollection, that it occupies Lot 56

1126 and part of Lot 51. That is to say, about 13 feet 6 inches, I should say of 51.

Q. So that the coal storage building did not occupy lot 59, lot 60, lot 53, lot 50, lot 49 and lot 47?

A. That is correct.

Q. In pink on sheet 2, of Exhibit 178?

A. That is correct.

Q. Do you know the cost of that 12-story building to the Company?

A. Why, I don't recall it now, Mr. Chambers. Doubtless at some time I had the knowledge of ex-
1127 penditures as they proceeded, as in the case of the entire building, but I do not carry all these figures in my mind.

Q. Who occupied that twelve story building?

A. The Consolidated Gas Company.

Q. The entire building, or did some of these other companies share in the occupancy of the building?

A. Why, absolutely no other company but the Consolidated occupied that building, except a portion of one floor, as I recall, was occupied by the Municipal Lighting Company. That was a small portion of one floor.

Q. You have not spoken of the Municipal Light-
1128 ing Company. Is that a corporation?

A. It is a corporation, yes, — or was.

Q. Are they in the building now, the Municipal Lighting Company?

A. I don't believe they are. That is my best knowledge, that they are not.

Q. Where did you begin to add to the twelve story building, front or rear?

A. Well, the twelve story building, 300 feet 1129
long——

Q. No, next; you have described the twelve story building.

A. Yes, I am trying to straighten this out for you, Mr. Chambers.

Q. All right, go ahead.

A. I can tell you anything you want of the structural proceedings on this building.

Q. That is fine.

A. We began and excavated both to the east and west simultaneously, both to the east and the west of the twelve story building.

Q. You mean on what lots? 1130

A. 53, 50, 49, 47, 59 and 60, as one big operation. That work was going on in 1913 and 1914. Now, then, that was carried up simultaneously and then bridged across the 12th Street Building.

Q. How far to the east did you go with that excavation?

A. Pardon me, I should have omitted lot 47 in that statement. The two-story extension is on that statement.

Q. You should have omitted lot 47 in which statement?

A. In the statement as to when we proceeded to 1131
build the 19 story building. If the stenographer will stop at lot 49 and strike out lot 47.

Q. Your explanation will make it clear. So that the nineteen story building then covered all of the lots there on sheet 2 in pink, except lot 47?

A. That is correct, including 54 and 56, on which a twelve story building was already built, because we bridged over the top of it.

1132 Q. What lot is occupied by the two-story addition you spoke of?

A. Lot 47 alone.

Q. That is that little lot on the east?

A. On the east.

Q. On the pink portion on sheet 2? Have you described fully the various operations that the Company participated in in erecting this 19 story building?

A. That is only a very simple statement. I have just made a simple statement. Of course, that was an operation of considerable magnitude, of enough magnitude for the moving picture companies to
1133 show it on the films.

Q. Was the twelve story building being used continuously after its erection until the nineteen-story building was completed?

A. It was; that is to say——

Q. By some one, I mean?

A. By the Consolidated Gas Company. It was occupied by the Consolidated Gas Company even while we were working overhead with the nineteen story building.

Q. You found that large enough for your wants or needs, didn't you?

1134 A. No, we were renting one floor of 30 Irving place at that time.

Q. Where is 30 Irving Place?

A. That is the building on the southeast corner of 16th street and Irving Place. We were also occupying some space in the Central Savings Bank.

Q. You do not mean the southeast corner of 16th and Irving Place, do you?

A. I do.

). 15th, don't you? 1135
. I mean 16th Street and Irving Place, 30
ing Place, another building one block away.
). How much did you rent there?
A. We had an entire floor.
). Do you know the floor space of that?
A. No, I don't, Mr. Chambers.
). How long did you rent that, or until what
ie?
A. I don't recall, other than that we took posses-
n in about the early part of 1913.
Mr. Ransom: Took possession of what; the
new building or the old one?
The Witness: This space at 30 Irving Place 1136
about which he is inquiring.
I did not finish my answer. We were also occu-
ing some floor space in the Central Savings Bank
ilding on the southeast corner of Fourth avenue
d 14th street at that time.
Q. The two story on the rear or on the easterly
le of the nineteen story building was erected for
e New York Mutual Gas Light Company?
A. I said that they had occupied it, but I do not
ow the executive intentions.
Q. You disclaim any knowledge of the arrange-
ent between the Consolidated and the Mutual 1137
out that?
A. I do.
Q. You have a bulletin board in the nineteen
ory building we have been speaking of, haven't
u?
A. At the main entrance.
Q. And there are some companies—you men-
ioned the complainant here, but you did not men-

1138 tion the National Coal and Coke Company. Don't they occupy some portion of that building?

A. They did occupy some space on the second floor, but I have not been in touch with them for some time.

Q. You don't want to be understood as saying that they do not?

A. No, no. Since you remind me of it I will say that they probably still have some small floor space on the second floor in the rear.

Q. Their name is still on the bulletin board?

A. I don't use that entrance where that bulletin
1139 board is.

Q. You did mention the New Amsterdam Gas Company?

A. Yes.

Q. And the Standard Gas Light Company?

A. Yes.

Q. You did not mention the Bush Electric Illuminating Company. Are they there?

A. I don't know a thing in the world about that.

Q. You don't know whether they are there or not?

A. Why, if you say their name is on the board, I presume they are. I would not imagine the board
1140 is misleading, but you are asking me about some corporation of which I know nothing. It must have a corporate existence.

Q. The United Electric Light & Power Company?

A. I did mention them.

Q. They are there?

A. Yes.

Q. You mentioned, I believe the New York Edi- 1141
son Company?

A. I did.

Q. You did not mention the American Gas Association. Do you know whether that is a corporation, a copartnership, or what?

A. Why, it is an organization, a society that I belong to.

Q. Is it a corporation or an unincorporated association?

A. I think they have recently been incorporated, if I am not mistaken.

Q. Is that their head office?

A. I understand it is to be there, but as to 1142
whether they have moved in or are in possession I don't know.

Q. You don't know where they are located in the building, then?

A. That is the successor of the American Gas Institute, which was formerly at No. 239 West 39th Street. I have understood there was to be a transfer of the headquarters. As to just where that stands I don't know.

Q. You don't know whether—whether they are in or out, or if in, you don't know where they are located in the building? 1143

A. No.

Q. Do you know where they are going to be located?

A. I am under the impression that the alterations I referred to as being made on the thirteenth floor are intended for them. What they have been doing meanwhile I don't know.

1144 Q. That is an association to further the gas business, is it, or what?

A. It is a general organization of the gas industries, both engineering and commercial.

Q. National?

A. National, succeeding, as I said before the American Gas Institute.

Q. Now, here is another, the Dahlstrom Metallic Door Company. You didn't mention them?

A. No, I don't know a thing about them.

Q. You don't know whether they are in the building or out?

A. I know that when the building was largely
1145 completed, that they had the contract for the steel trim, that they then had some offices in the building. My contract with it was only in relation to the work they are doing in the building. Since then I don't know anything about it.

Q. Apparently they are not a gas or electric light company?

A. Oh, no, they are not a gas or electric company.

Q. You did not mention the Electrical Refrigerating Company?

A. I don't know anything about them.

Q. You don't know whether they are in the build-
1146 ing or not?

A. No, except I will say that if their name is on the door they must have an office there.

Q. Now, let us take up the property on sheet No. 3 of this Exhibit No. 178, which you described. You had better have this Exhibit 178 in front of you, to save time.

A. I have it.

Q. In that block, block 982, lot No. 13, sheet No.

3, of Exhibit 178, what is on the easterly end of the 1147
lot on Avenue C?

A. A purifier house in two sections, with a revivifying room and a meter house, and tool house on the south side of 15th Street just west of the building described.

Q. When were you last there at that purifier?

A. In the purifier house?

Q. Yes.

A. I don't recall.

Q. Have you ever looked at it?

A. Oh, yes.

Q. When?

A. Why, I have been in the building a number of 1148
times, but I don't remember when the last time was that I was in there.

Q. Well, were you there since 1906, say?

A. Oh, yes.

Q. Can you tell us any nearer than that?

A. Why, I have been in there in every year since 1906.

Q. This year?

A. Yes, but I don't remember how far back.

Q. What did you do when you were there this year? I mean, why did you go there?

A. I don't recall the circumstances, other than 1149
that I walked through the building.

Q. Now, what kind of a building is it?

A. I would describe it as a one-story building. The floor is some feet above the sidewalk.

Q. Has it been there ever since you have been with the Company?

A. It has.

Q. That is since 1902, was it?

1150 A. 1901.

Q. Since 1901?

A. Yes, sir.

Q. Was it there in about the same condition that it is in now?

A. I don't know what you mean,——

Q. The building is the same size?

A. Yes, it has not been extended.

Q. Has it always been used as a purifier?

A. As a purifier house?

Q. Yes.

A. Always, during my employment with the company.

1151 Q. When you were last there this year was it being used as a purifier house?

A. When I was last there this year?

Q. Yes.

A. You mean was gas going through the purifying boxes?

Q. That is exactly what I mean.

A. There was not.

Q. How about last year, how about 1918, was gas going through the purifiers?

A. In the early part of 1918, as I remember it.

Q. Are you sure about that?

1152 A. Yes, I am quite sure of it, Mr. Chambers.

Q. How about 1917?

A. In the latter part of 1917 I am pretty sure there was gas going through the purifier.

Q. How about 1916?

A. I don't recall.

Q. The fact is that gas is not going through it now?

A. No.

Q. It has been abandoned, hasn't it? 1153

A. It has not.

Q. It has not?

A. No.

Q. But you don't say that last year, or this year so far you have not used it?

A. We have not operated it as a gas plant since the government operations were conducted there.

By Mr. O'Brien:

Q. You are going to charge this up to Uncle Sam, are you, Mr. Alrich?

The Master: Don't answer that question. I will not permit it, Mr. O'Brien.

Mr. O'Brien: Well your Honor, some time 1154
may be saved if we inject here and there a few things.

The Master: No.

Mr. O'Brien: I am always interested when they get the stars and stripes around the toluol.

By Mr. Chambers:

Q. Now, what is in this purifier house?

The Master: I would like to have you bring out, if you will, Mr. Chambers, just what he means by government operations there, what they were, and when they were started.

Q. Tell us all about that, speaking of the govern- 1155
ment operations there?

By the Master:

Q. What was the government operations?

By Mr. Chambers:

Q. May I suggest, are you not mistaken about the fact that this was used at all by the government? Isn't it on another sheet, another block?

Mr. Ransom: You mean merely the particular house, or what?

1156 Mr. Chambers: I don't want to spend time if he is mistaken.

Q. Aren't you mistaken when you say that that purifier house on Block 982, sheet No. 3 of Exhibit 178, was used ever by the United States government for any purpose?

A. I did not undertake to make such a statement.

Q. I understood you to say that you had not used it since the government used it?

A. The government work was carried on at this plant, the 14th Street station of the Consolidated Gas Company.

1157 Q. But this purifying house was never used in any way by the United States government, was it?

A. As to whether that purifier house had any connection with the government work, or not, I don't know; but when we were using the retort benches for the production of carbon, the purifying house, if not in use by the United States government, was no use to us.

Q. Has the United States government ceased all operations there at that plant?

A. They have.

By the Master:

1158 Q. Now, tell me what were these government operations there? You say producing carbon?

A. The gas masks used by the Expeditionary Force were provided with a canister that was connected with the breathing piece by a tube, and in that canister there was treated carbonaceous substance for the neutralization of the poisonous gases, and the soldier inhaled through that substance, and a large part of that carbon or car-

bonaceous material was produced in this plant for 1159
the Government.

By Mr. Chambers:

Q. Wait a minute. You don't mean in this purifying house?

A. No, I meant to say——

By the Master:

Q. What buildings did they use for it?

A. They used principally the group of buildings on block 988.

Mr. Chambers: I will come to that. I will cover that carefully.

Q. Just tell me this, when did that work start 1160
for the Government, do you remember that?

A. My recollection is that we got busy early in the spring of 1918, when they were preparing for the great drive.

Q. Up to that time had this plant been used for the production of gas?

A. In the winter of 1917-18 we did not use it.

Q. Had it been used right up to the time the Government started to make carbon?

A. That is to say, was there an interval between the operation as a coal gas plant, and the manufacture of carbon? I do not recall whether there was an interval there. My impression is there was 1161
some interval.

The Master: Go ahead, Mr. Chambers.

By Mr. Chambers:

Q. Now, is that the only purifier house there is connected with this so-called 14th Street plant?

A. It is.

Q. Now, I am talking about block 982, lot 13, and the easterly portion thereof.

1162 A. That is the only purifier house pertaining to the 11th street station.

Q. What kind of a purifying house is it? How does it purify the gas there, do you know?

A. Your first question is, do I know. Yes.

Q. How?

A. By bringing the gas into intimate contact with iron oxide.

Q. Iron oxide mixed with wood shavings?

A. Yes.

By the Master:

Q. These wood shavings, are they in tanks or boxes of some kind?

1163 A. These purifying boxes are large rectangular boxes, in which there are wooden slatted trays, and on these trays the iron odize, which is mixed with the wood shavings merely for preventing the mass from sticking to the slats. It is mixed with the shavings for that purpose only. The gas comes in at the bottom of the box, and has to make its way through the oxide, and in that way the sulphurous compounds are removed.

By the Master:

Q. And then the gas goes off into other pipes from these boxes?

1164 A. Yes.

By Mr. Chambers:

Q. Now, unless you made considerable gas at that plant, you would not, of course, need that purifier, would you?

A. If we made any gas at the plant, we would need some purifying capacity.

Q. Do you happen to know how much gas you made in 1918 at that plant?

A. I do not. 1165

Q. If I tell you would you recognize the amount? 18,800,000 cubic feet?

A. I would not recognize it.

Q. Now, if that figure is correct, 18,800,000 cubic feet in 1918, that is four days' run, isn't it, just four days' use?

A. I don't know.

Q. Aren't you a gas engineer?

A. I am a gas engineer.

Q. Can't you make 18,800,000 cubic feet in four days?

A. Running that plant to its maximum capacity, why I should think you probably could produce 1166 18,000,000 feet in four days in that plant.

Q. If I am right about it, and that was the only amount of gas made there in 1918, and it only took four days to make it, wouldn't you say, as a gas engineer, that it is not necessary to have that purifier there at all, to carry that load of expense for that small amount of manufactured gas?

A. I would say that if you made any gas at all in that plant, as a gas engineer, you would have to have a purifying house.

Q. That would be your best answer to that?

A. That is not my best answer. It is a fact, if 1167 you are manufacturing gas in a plant to be commercially used you have to have a purifying house.

Q. Suppose you give me your best answer then if that is not your best answer?

The Master: Oh, I think we understand the witness.

Q. How many men are employed in that purifier, do you know?

1168 A. I don't know; that belongs to the operating department.

Q. What else is in there besides the purifier, in the purifying house besides the wood shavings and the rusty steel screenings, or whatever you call them, mixed with the shavings. Is there anything else?

A. You are referring to the oxide by the rusty——

Q. Yes, I want to find out all that is in there?

A. All the apparatus that is in there is accessory to the purifiers, except the two station meters that are in the extension. The piping, the two
1169 center seals, and the cover-lifts are accessory to the purifying boxes.

Q. The station meters, there are two of them there in that building?

A. In an extension of this building, westerly extension.

Q. Where is the extension?

A. Right in the center of the block on the west side of the purifier house. The extension indents—it is a room constructed with separate brick walls, and it indents partly into the purifier house, and extends partly into the yard as an extension.

1170 Q. Is it a building all by itself?

A. It could be regarded as a separate building abutting the purifying house.

Q. Do you know the floor space of the purifier house?

A. No, I don't carry all those things.

Q. Or the floor space in this extension in which are the station meters?

A. No, I don't carry all those figures in my head.

Q. Are these station meters used in connection 1171
with this 14th Street plant?

A. They are.

Q. How old are those, do you know?

A. I don't know.

Q. Two of them?

A. Two of them.

Q. Do you know the make, the manufacturer?

A. My recollection is they are American Meter Company.

Q. Are they what you call wet station meters or dry?

A. They are wet station meters.

Q. Do you know their capacity? 1172

A. Well, their joint capacity must be in excess of——

Q. No, I am asking you if you know. If you don't, all right, but if you do, tell us?

A. I can make you an estimate.

Q. Well, do so?

A. In general I should judge that each meter would pass from two and one-half million to three million cubic feet a day.

Q. They are older than 1901?

A. They were there when I came into the employ of the company. 1173

Q. Do you know how old they are?

A. I do not.

Q. Do you know how old this building is, the purifier building?

A. I don't know.

Q. Or how old the small building is that houses the two station meters?

A. I do not.

1174 Q. What else is there on that block by way of buildings? I am speaking of the same block, Block No. 982?

A. Other than a brick fence wall, no other structures.

Q. Where is the brick fence wall?

A. It extends from the purifier house just described to the westerly boundary of the property on both 14th and 15th Streets.

By the Master:

Q. Is it on the westerly boundary, too?

By Mr. Chambers:

1175 Q. Just indicate, will you, where that fence is?

A. Referring to Sheet No. 3 of Exhibit 178I the brick fence just referred to begins at the westerly side——

Q. But a mark there?

A. The westerly side of the purifier house and extends westwardly from thence——

By the Master:

Q. That would be about how many feet from the corner of Avenue C on 14th Street, seventy-five feet?

A. I should say about sixty-five feet.

Q. Beginning at a point on the north side of 14th Street about sixty-five feet west of Avenue C?

1176 A. West of the westerly side of Avenue C, and extending from thence to a point 134 feet 10½ inches west of the westerly side of Avenue C.

Q. On the south side of 15th Street it begins how far from the westerly line of Avenue C?

A. About seventy-five feet, and extends from thence to a point about 134 feet west of the westerly line of Avenue C.

Q. How about the westerly end of the property, 1177
is there any brick wall there?

A. There is. Across the westerly end there is a brick wall, as I recall, on the southerly half of the property, which, however, abuts an adjoining building. This wall is built up against the adjoining building.

By Mr. Chambers:

Q. Then at the west end of the property the wall extends only part way across the premises?

A. That is correct.

Q. And is there any wall in the middle of the block between the two points that you have mentioned? 1178

A. The westerly wall of the buildings already described connects across at 14th Street to 15th Street not being a brick wall in one line, but it joins, for instance, in particular the extension forming the meter house.

Q. What was there here (indicating)?

A. Brick tool house.

Q. Whose tools are in that?

A. The tools used in handling the oxide.

Q. Of this company?

A. Of this company.

Q. How long had the wall been there, this wall 1179
you speak of; do you know? Was it there when you entered the services of the company?

A. There is some part of it—I have rebuilt some part of it.

Q. Then you have some first hand knowledge about it?

A. About the part I built.

Q. Where is the part that you built?

1180 A. Oh, there are two sections of it on the south side of 15th Street.

Q. On the south side of 15th Street?

A. Yes. One section at the westerly end near the westerly boundary of the company's property, and the other at the easterly end near the purifier house.

Q. How many feet, about?

A. Did I rebuild? Oh, I don't recall, but it was a length I don't suppose of over about twenty feet at the westerly end and less than that at the easterly end.

Q. When did you do that?

1181 A. In 1916, I think.

Q. Just to return once more to the tool house, was that there when you entered the services of the company?

A. It was.

Q. What kind of a building is that?

A. It is a brick building with—an ordinary brick building, one story high with a flagstone floor.

Q. And the purifier house, what is that, an ordinary brick building?

A. A brick building.

Q. Brick and mortar?

1182 A. Yes, and slate roof.

Q. What kind of roof?

A. Slate roof on iron trusses.

Q. So you do not know when the tool house was built?

A. No.

Q. What kind of a wall is that you speak of? We already have it as a brick wall; how high is it?

A. About 12 feet high and coped on top with 1183
bluestone flagging.

Q. How thick is it?

A. The wall?

Q. Yes; or is it all one thickness?

A. As I recall it is a 12 inch wall with 4 inch pilasters.

Q. Just ordinary brick and mortar?

A. That is correct.

Q. Is there anything else, any other structures on this block?

A. No more; no other structures.

Q. From what you have told me, see if I correctly 1184
represent you when I say that about a third or a quarter; perhaps a quarter or possibly a third of this lot, is occupied by these buildings you have mentioned, or what portion of the block is it, if it is not a third?

A. No, it would be——

Q. Is it not nearer a quarter?

A. I should think nearer a quarter, yes.

Q. The rest of the block is occupied by what? What use is the rest of the block put to?

The Master: Wait a minute, Mr. Chambers and let us get this right.

By the Master: 1185

Q. As I understand it, the purifier house runs a distance of 65 feet on 14th street; is that right?

A. 65 feet, yes.

Q. And on 15th street the purifier house and tool house run about 75 feet?

A. Yes.

Q. The distance here is 434 feet?

A. Yes.

1186 Q. How can that be a quarter of 434 feet?

A. Well, it would be——

Q. Very much less than a quarter?

A. But in the center the meter house projects out here to the west.

Q. How far?

A. I don't recall.

Mr. Chambers: About 100 feet.

The Witness: No, I would say approximately twenty feet.

Q. Twenty feet?

A. Yes.

1187 Mr. Chambers: It is one hundred feet, isn't it, from there out to this purifier house, where it goes out here (indicating)?

The Master: Out to the end of the meter house.

Mr. Chambers: Yes, the whole distance across there is one hundred.

Q. As I understand it, then, Mr. Alrich, taking the meter house which indents into the purifier house, but which does not extend from street to street, the distance from the west line of Avenue C to the westerly end of the meter house is about one hundred feet?

1188 A. It would not be over a hundred feet.

Q. Which would be about a quarter of the distance of the entire plot?

A. Yes.

By Mr. Chambers:

Q. So that all the structures would not be a quarter, then?

A. Would be less than a quarter.

Q. Less than a quarter?

A. Yes. 1189

Q. The rest of the block—what is the area of that block, have you any idea?

The Master: We have that all on the record.

Mr. Chambers: Oh, we have that.

The Master: Yes, we have that.

Mr. Chambers: I see.

Q. What is the rest of the block used for?

The Master: I think you ought to say plot rather than block, Mr. Chambers, because I do not think it runs to the end of the block.

Mr. Chambers: Well, the rest of the plot or shaded portion.

The Master: The rest of plot 13, what is that 1190 used for?

A. On the westerly end of lot 13 there is some coal stored.

Q. C-o-a-l?

A. C-o-a-l.

Q. Whose coal is that?

A. It belongs to the Eagle Pencil Company.

Q. And I suppose that is a corporation that makes pencils?

A. It is.

Q. Does anybody else use any portion of the balance of that lot 13? 1191

A. The truckman who is trucking that coal has some of the carts there that he is using in connection with the coal. A part of this yard, though, at the easterly end, I might say was used for the revivification of oxide.

Q. Is it not a fact that the National Coal & Coke Company used some portion of lot 13, block 982?

1192 A. I have no knowledge of any use made by them of that plot 13.

Q. Do you know that there is such a corporation?

A. Yes.

Q. What did you build this brick wall around the lot for, do you know what purpose that serves, if any?

A. It is for enclosing the property.

Q. That portion of it around the place where the Eagle Pencil Company store their coal, protects their coal, I suppose?

1193 A. It does.

Q. It is a protection to their coal. You would not need any around your purifier works, would you, when everything is inside the building?

A. It is always necessary to protect the gas works.

Q. Well, would you need it when all that is done is inside the buildings?

A. I should say it was decidedly unsafe to operate a gas works in that neighborhood without having it enclosed. That is the principal province of gangdom, over there.

Mr. O'Brien: Where is that.

1194 The Master: Do not answer.

Q. In that locality you say it is subject to—the property is liable to be disturbed because of gangs?

A. It is.

Q. You know that, do you, of your own knowledge?

A. I do.

Q. What experience have you had in that regard as to this lot?

The Master: I won't any further examination on that. 1195

Mr. Chambers: Well, it becomes a question whether this wall,—they are going to charge for it, I take it.

The Master: That is the witness' opinion; that is all it is worth.

Q. You would not need a wall around the whole plot to protect the purifier house, of course; you will concede that, won't you?

A. I should believe for the uses to which that plot has been put, that the fence is necessary.

Q. Well, to protect the——

The Master: Just answer Mr. Chambers' question. 1196

Q. The Pencil Company's property—to protect the Pencil Company's coal, partly. It does that, doesn't it?

A. Yes.

The Master: Does the Pencil Company hire any part of this lot from the Gas Company?

The Witness: They do.

Q. Do you know the arrangements under which they rent part of this?

A. I do not. I just know they rent it. That is a part; I know they rent a part. 1197

Q. How long have they been there, do you know; how many years—the Eagle Pencil Company?

A. My recollection is that they put the first coal in there in the fall of 1907.

Q. Prior to that do you know who used that lot—that portion of the lot?

A. The Gas Company.

Q. The Consolidated?

1198 A. Yes.

Q. What did they use it for?

A. There were formerly gas holders on that property.

Q. Covering what years?

A. Up to 1917.

Q. And these gas holders were torn down?

A. They were.

Q. And moved away?

A. Dismantled.

Q. In other words, the company abandoned so much of that lot as was covered by the gas holders in 1913?

1199 A. They did not abandon it.

Q. Well, they dismantled their holders?

A. They dismantled the holders.

Q. Ceased to use the lot for a holder?

A. For holders.

By the Master:

Q. They have not used it for any other gas purposes, have they?

Mr. Chambers: Since?

The Master: For manufacturing gas?

A. Except so far as they may have revivified oxide at the easterly end.

1200 Q. At the easterly end?

A. Yes.

Q. Outside of that, I mean.

A. It has been standing there.

By Mr. Chambers:

Q. How much of that space between the buildings you have described on the easterly end of that lot and block, is used for the purpose you have just mentioned.

A. Revivifying oxide? 1201

Q. Revivifying oxide.

A. Well, that would depend on several operating factors, Mr. Chambers,—the quantity of oxide that was necessary to revivify.

The Master: What would it average; 20 or 30 or 40 feet?

The Witness: I could not say that. I should say a strip across the block 20 feet wide.

Q. What do you mean by revivifying oxide?

A. After the oxide has been in a purifying box for a period of time——

Q. About four months, isn't it?

A. Oh, no. 1202

Q. Less than that?

A. It depends on various operating factors. It can vary very considerably. The oxide is in combination with all of the sulphur that it can take up, and in order that the oxide may be further used, it is then revivified, which in commonplace language you might describe as rusting it some more. So we put it out in the weather, in the air, and rust it some more. That is not a technical description, you understand.

Q. Have you ever used it for that?

A. We surely have. 1203

Q. Well, if you only ran that plant four days in 1914, you would not need very much space there to revivify those shavings, would you?

A. In preparation for the four days, you might.

Q. How much of a strip? Two or three feet—wouldn't that do? You do not want the Court to understand you need a lot of room there in which

1204 to spread out these shavings to have the rain fall on them, do you?

A. If I was going to operate a plant for four days, I would probably have all of my boxes, purifying boxes, in shape. That would be a wise precaution.

Q. You did not answer my question?

A. That is an answer to your question.

Q. That is your best answer?

A. I will ask him to read it again.

The Master: I think that is largely argumentative, Mr. Chambers. I think I understand the situation.

1205 Mr. Chambers: All right. We will pass to another.

The Master: Of course if they had oxide in the tanks or boxes there that was comparatively fresh they would not need this place at all to revivfy the oxide.

Mr. Chambers: Of course, your Honor sees how important it is to find out all about these things.

The Master: I appreciate that you want to bring out every inch and every foot and every article that is not actually used for gas pur-

1206 poses, and the only reason I interrupted the cross examination was because I thought you had made it perfectly clear.

Mr. Chambers I think I have. I think I have. There is no use spending any time with a matter that is clear already.

The Master: Once the matter is clear, no.

Q. Let us take the same sheet 3, the same Exhibi 178, Block 989, Lot 1.

A. Yes, sir. 1207

Q. What is on there, a holder?

A. A 3,300,000 cubic foot gas holder, an engine, a governor house and photometer house, a boiler house and small rigging house and a tank for the storage of drip oil, and also an oil storage house.

Q. I want to take them one by one.

The Master: See if we can locate that in the record and we will follow it better.

Mr. Chambers: Yes.

Q. The holder, where is that located on that block 989, lot 1? Where on that lot is the holder?

A. The center of the holder is substantially mid way between 15th and 16th Streets. 1208

Q. Could you draw a circle? Put a circle on that exhibit, will you? That will not hurt it any. This is not an exhibit.

Mr. Chambers: Let us get the original and I will ask him to mark that. Do you mind if we mark the original a little bit?

Mr. Ransom: I don't believe it a very good practice to mark up exhibits.

Mr. Chambers: Yes, it is; I find it an excellent practice. I find it the best way to put pencil marks on the original.

Mr. Ransom: It is obvious, of course that a 1209
mere pencil drawing on an exhibit is not a very helpful thing for the record.

By the Master:

Q. Are all these maps printed substantially the same way—that is, with the word "block" in substantially the same location?

A. About in the center.

Q. The center of the holder then, is about at the

1210 bottom of the letter "C" in the word "block", as it appears on the map; is that correct?

A. That is correct, and completing the answer partly on the record, is about 103 feet east of the easterly side of Avenue C.

The Master: You need not mark this map. That is described very fully. That is a point between 15th and 16th streets, at a point about 103 feet east. That is enough.

By Mr. Chambers:

Q. Where are the other buildings?

A. The governor house is on the north side of
1211 15th street, at the easterly side of the property. The photometer house——

The Master: That is what you call in your testimony the valve and governor house?

The Witness: It is.

The Master: That is one house?

The Witness: Yes. The photometer house is immediately adjacent and abutting and west of the governor house. The boiler house is in the middle of the block. The oil house is——

Q. It could not be in the middle of the block?

A. The middle of the property. It is midway
1212 between 15th and 16th streets.

Q. But on the east?

A. On the easterly edge of the property. The oil storage tank to which I referred is just north of it and along the easterly line of the property. The oil storage house is down at the southeast corner of the property, and the rigging house is in the angle of the fence at the northeast corner of 15th street and Avenue C. Now, in the yard are con-

nections, numerous pipe connections between the 1213
holder and the valve house. There is also outside
of the boiler house a steel stack or chimney on a
concrete foundation.

Q. Let us return to the holder. Is that what you
call a telescopic holder?

A. It is a telescopic gas holder.

Q. I notice you lay great emphasis on the ca-
pacity of the holder. Did you build it?

A. I did not.

Q. When was it built?

A. I don't know.

Q. Where did you get your information from as
to its capacity, which you stated with considerable 1214
emphasis as being 3,300,000?

The Master: That is right.

A. I computed that.

Q. How did you do that?

A. From the dimensions of the holder.

Q. What did you do, measure it up?

A. I did.

Q. And what are its dimensions?

A. Well, I don't carry all that detail in my head
as to the dimensions.

Q. Well, you carry its capacity in your head?

A. Well, there are many more dimensions to the 1215
holder than there are capacities to it. There is
only one capacity, but there are about ten thousand
dimensions.

Q. Did you measure all those up?

A. All of the dimensions of the holder—all of
the dimensions necessary to compute its capacity.

Q. And what are those; what would one need in
order to ascertain its capacity; what dimensions?

1216 A. The diameter of the shells—that is to say, the sections and their effective depth.

Q. How many sections has it?

A. Three.

Q. If that is the way you ask it, that is what I mean. And what is it made of?

A. Steel.

Q. And do you know how old it is?

A. I do not.

Q. Was it there when you entered the services of the Company?

A. It was.

1217 Q. Have you any idea how long before that it was there? Did you study its history to ascertain when it was built?

A. No, only except as far as it is built of steel, of open hearth steel. It represents later day construction.

Q. If it was built prior to 1901, it does not represent any later construction than 1901, does it?

A. No.

Q. You do not mean to say it is right down to date in its construction?

A. I say there is nothing in the United States of
1218 America that excels the steel tank of that holder.

Q. It is over twenty-one years old at least?

A. I don't know.

Q. It may be 41 for all you know?

Mr. O'Brien: Your Honor, I move to strike out the answer of the witness as not responsive. He says there is nothing in the United States that excels the steel tank to that holder. He has not qualified here as an expert. The an-

swer was not responsive. As I understand it, 1219
he was brought here to give us a bird's-eye view of this property.

The Master: Motion granted.

Mr. Ransom: Exception.

Q. What kind of steel is it?

The Master: You see, Mr. Alrich, if you just answer the question we will save several seconds, which added together will make a great many minutes.

Mr. Ransom: The question might be read. The answer was responsive.

The Master: No, it was not.

Q. Has there been some progress in the art of 1220
building holders in the last twenty years?

A. I don't think there is any apparatus or implement——

Q. No, just stick to that question now, will you please?

A. I should say there has been no fundamental advance in the construction of gas holders in twenty years.

Q. What have you to say as to the important question whether there has been or has not been—if there has not been advance, some advance, in the art of constructing holders, gas holders, in the last 1221
twenty years?

A. I should say no very material advance.

Q. You know what the term "improvement in the art" is, don't you?

A. Yes.

By the Master:

Q. Has there been any?

1222 A. I don't know of any patent that has come out in twenty years.

Q. That is not the question; there may be improvements without their being patented. Has there been any improvement in the art of building these gas holders?

A. Only in matters of small detail.

Q. Well, there has been some?

A. Only in small details.

Q. Can't you just answer that question? There has been some?

A. There has.

1223 The Master: Find out to what exent, Mr Chambers. You said unimportant parts—or you did start to say either important or unimportant. If you do not want to ask it, I will because I had forced the witness to a point where I wanted to.

Mr. Chambers: Go ahead, I do not remember it.

Q. Are these improvements substantial matters?

A. I don't think so.

Q. What do they relate to?

A. Numerous points of petty detail in the design.

Q. In what respect? Petty detail as to what,

1224 having reference or relation to what?

A. Oh, the adjustment of the water level in the tanks, and oil skimming devices seal bonnets for the inlet and outlet pipes, and cup and tank heating—things of that character. I don't mean the application of those things; I mean improvements in the small details of those things.

The Master: Go ahead, Mr. Chambers.

By Mr. Chambers: 1225

Q. Is gas stored in this tank continuously—in this holder?

A. I will have to give you a technical answer. There is gas stored in the holder continuously. The tank means the particular part of the——

Q. The holder, I should have said?

A. Yes.

Q. How do you know that?

A. Because I see the holder afloat.

Q. How often do you visit the aforesaid holder?

A. At no regular intervals, but I can see it out the window.

1226

Q. Now, out of this window?

A. No, but of our general office building.

Q. From your nineteen story building?

A. Yes, sir.

Q. Well, do you look; do you go and look?

A. Very frequently look out of the east windows of the building.

Q. And what do you see about it?

A. I see the holder inflated.

Q. Don't you see it down often, too?

A. This holder? On Plot 989? That holder has not been down since 1912. Of that I would be quite sure.

1227

Q. It is always full, is it?

A. Or in action. Of course a holder in action cannot always be full.

Mr. O'Brien: You are at least modifying your previous statements.

The Master: Don't answer that question.

Q. Where does the gas come from that is put into the holder; do you know that?

A. I don't know.

1228 Q. It certainly does not come from this plant here on 14th Street, the works?

A. At the present time, no.

Q. How long since it has been used to hold the gas from the 14th Street plant?

A. When the gas was last produced at the 14th Street plant.

Q. Which was a year or so ago?

A. As I recall it, yes.

Q. What territory, or do you know what territory that holder serves?

A. I don't know. That is a distribution matter.

Q. Is the gas from that holder distributed only
1229 to consumers of the Consolidated Gas Company?

Mr. Ransom: I object to the question as not within the scope of the direct-examination. It is a matter of distribution which we shall have to handle by other witnesses.

The Master: If the witness knows I will let him answer.

Mr. O'Brien: May I at this point ask counsel to state why this witness was produced?

The Master: No, you may not ask that question.

Mr. O'Brien: It is a fair question, your
1230 Honor.

The Master: I won't permit it to be answered.

Mr. O'Brien: It might regulate the extent of the cross-examination.

The Master: No, he has testified to certain matters on direct with reference to which you will have the right to cross-examine him.

Mr. O'Brien: Well, that is frequently stated

by counsel in this class of cases as a guide in 1231
the matter of arrangement of cross-examination. If he is here just to give us the title page of this little book that is about to be created in this trial, your Honor, of course we would not need to spend much time with him; but if they are relying on this witness and his testimony to show that all the property within the dimensions described in these diagrams is actually used and usable for the purpose of making gas of this company, it is another question.

The Master: I have made my ruling, Mr. 1232
O'Brien.

Mr. O'Brien: That is the reason I asked the question, because it will save a good deal of time. If he is a witness on that point he will need a thorough cross-examination.

The Master: I have already ruled on that.

Mr. Chambers: Your Honor, Judge Ransom at folio 767 opened the door when he asked the question: "What use is made of them by the Consolidated Gas Company?".

The Master: I have ruled on that matter. If you know you can answer.

A. May I have the question? 1233

Mr. O'Brien: Did I understand counsel to decline to state the purpose, or did your Honor give him a chance?

The Master: I declined to let counsel state it and will not permit any further discussion on it. My understanding is when a witness is called he is called to answer questions in regard to what he is called about.

1234 Mr. O'Brien: Does your Honor rule that we may not ask counsel what the purpose of his examination is?

The Master: Yes. Read the last question.

Q. (Read.)

A. I don't know.

Q. Haven't you some knowledge on that subject, or are you saying you don't know to avoid further details about it?

A. Those are matters with which I have nothing to do, Mr. Chambers.

Q. You have some knowledge, on that subject, haven't you?

1235 A. What subject? What is the subject?

The Master: Distribution of gas from this tank or holder.

Q. And that the gas from that holder is consumed by the consumers of the Standard or Mutual, perhaps?

A. I have absolutely no knowledge about the subject with respect to that holder at all. If it would save my life I would not make any statement about it.

Q. You would not say that the consumers of these other companies did not use some of the gas

1236 out of them?

A. Oh, no, I would not say that.

The Master: Because you do not know anything about it?

The Witness: I do not know where that goes to, other than it goes out in the gas mains in the street. Where it goes to I could not undertake to say, and I have not a ghost of an idea.

Q. With what main or mains is it connected up, 1237
do you know that?

A. It connects into the governor house already described.

Q. Where do the pipes come from that supply it—what mains? Where does the gas come from that enters it?

A. Before passing through the connections in the governor house, you mean?

Q. Yes.

A. From mains in 15th Street and also a main that, as near as I recollect, crosses the property to the north and goes out into 16th Street.

Q. Supplied then by those two mains? 1238

A. I would judge so, yes.

Q. Whose mains are those, do you know?

A. Those two are mains of the Consolidated Gas Company.

Q. You are quite sure about that?

A. Yes, oh, yes.

Q. Now the next is the governor house?

A. Governor house, yes.

Q. And valve?

A. Valve house. Governor and valve house, one building.

Q. What kind of a building is that? 1239

A. Brick building with—we describe it as fireproof construction, and have steel floor, steel beams, steel roof frame, tile block, covered by slate.

Q. How large a building is that? I mean what is the area of the floor by the square foot or square yard?

A. I don't recollect the dimensions of the building.

Q. When was that building built?

A. Oh, that was built in my time.

Q. Since you have been——

A. Yes, because I remember making drawings on it.

Q. Then the holders were there, without this governor or valve house?

A. Some predecessor building was there.

Q. You mean in place of the governor house or valve house?

A. Yes.

Q. And that was torn down?

A. Yes.

Q. Torn down because it was what, obsolete or inadequate or what?

A. I do not know why they tore it down. We built a new building.

Q. When was that built? When was this governor and valve house building built, if you did it?

A. In 1905.

Q. Did you draw the plans for it?

A. I had charge of it.

Q. Who performed the work and labor, the Consolidated Gas Company, or did you have an independent contractor?

A. You mean building the building?

Q. Yes, this governor and valve house?

A. Richard Deeves and Sons.

Q. Deeves?

A. Yes.

Q. A New York concern?

A. Yes.

Q. They had the contract for it? 1243

A. Yes.

Q. You remember the cost of it?

A. I don't recall now. I did know it, but I don't carry all those figures in my mind. I would not even want to make a wild guess.

Q. You have not any doubt but what the Company's books would show what it cost, though?

A. Oh, not a doubt in the world but what their books will tell what it cost.

Q. How about the boiler house; was that built in your time?

A. It was.

Q. What year was that built in? 1244

A. A few years after the other one. I do not recall exactly.

Q. Say 1908?

A. No, say the last part of 1906 or 1907; somewheres around that.

Q. You want to put it around 1906 or 1907?

A. Yes.

Q. Did you draw the plans for that?

A. I was in charge of the drawing of the plans.

Q. Who erected that building?

A. The contractor, you mean?

Q. Beg pardon? 1245

A. You mean the contractor?

Q. Who had the contract for the erection of the building?

A. I don't know who had the contract for that building. I think Deeves had that. I think another contractor had that.

Q. I wish you would refresh your recollection.

1246 You will be on the stand probably to-morrow. Would you give me that name?

A. I will refer you to counsel.

The Master: No, if you have any way of refreshing your recollection, and you are on the stand to-morrow, find out about it, will you?

Mr. Ransom: We will try to get it if we can. We will look it up.

Q. What is in the boiler house?

A. Three Babcock & Wilcox boilers, a feed water heater, feed water pumps and the accessory piping, steam, water, etc. The stack I referred to, that is used in connection with the boilers, is outside the
1247 building.

Q. Those are ordinary boilers for heating water?

A. They are regular Babcock & Wilcox boilers.

Q. For heating water?

A. For generating steam.

Q. Well, for generating steam?

A. That is a greatly different thing from heating water. You can heat an awful lot of water and not make any steam at all.

Q. It is for the holder, isn't it?

A. For the holder? We don't want hot water in the holder. We want gas.

1248 Q. What do you use these boilers for?

A. Operating the engines in the governor house just described, for the steam jets on the gas holder in winter.

Q. Do you need them in the summertime?

A. Steam jets on the gas holder?

Q. Yes.

A. No, not so you would notice it.

Q. So these boilers you do not use except in the 1249
winter?

A. Oh, yes, we do; we use them in the summer-
time.

Q. What for?

A. To operate the engines in the governor house.

Q. What is the capacity of these boilers; do you
know that?

A. There are three;—didn't I give that on the
record on Friday?

Q. If you did we ought to be able to get it here.

A. I should imagine it is from 130 to 150 H. P.
each. They are all three alike.

Q. I take those were installed about 1906 or 1250
1907?

A. At the date the building was built.

Q. And what else is there there besides the
boiler?

A. Feed water heater and feed water pumps and
piping.

Q. Were the boilers new when they were bought,
or were they secondhand?

A. Absolutely new.

Q. Had not been used before?

A. They had not. You have not forgotten the
smokestack that I referred to, have you? 1251

Q. Where is that?

A. Just outside the building, near the south-
east corner of the building.

Q. Well, you could not get along without that,
could you—with the boilers?

A. We could not.

Q. What kind of a smokestack is it?

A. Steel on a concrete base.

1252 Q. Who built that?

A. I don't remember.

Q. Was that built at the same time, about 1906?

A. It was.

Q. There is not anything special or peculiar about that smokestack, is there?

A. There is not.

Q. I mean that you wanted me to ask you about it?

A. There is not. I just did not want to forget it.

Q. Just an ordinary smokestack?

A. That is all.

1253 Q. How tall or how far up in the air is it?

A. About 150 feet.

Q. Now, I think I have covered everything that is on that block, haven't I—that lot 1?

A. You did not ask me about the drip oil tank.

Q. About the drip oil building?

A. No, it is not a building, it is a tank.

Q. Where does that oil come from?

A. From the drips.

Q. From the holder?

A. Yes.

Q. It is the oil out of the gas, is it?

1254 A. Yes.

Q. And that is a by-product, isn't it?

A. It is, yes.

Q. And you sell that, don't you?

A. I don't know what they do with it. Of course I know in a general way, you know.

Q. Let me say I don't know as much as you do about it. But in this holder there is a certain

amount of oil results from the gas being in the holder? 1255

A. That collects in the drips, not in the holder.

Q. And that is salvaged and placed in this tank?

A. In this tank, yes.

Q. That you have been describing?

A. Yes.

Q. And it is a commercial product?

A. I would so describe it, yes.

Q. And that tank is for the purpose of receiving that drip oil?

A. Correct.

Q. Is that a building all by itself?

A. No, it is a tank in the open. 1256

Q. And how long has that been there?

A. It was put there only a few years ago.

Q. New—was it?

A. New, brand new.

Q. What is its capacity?

A. I don't recall. A small tank.

Q. You don't know how many gallons?

A. No, it is small.

Q. A hundred gallons?

A. Oh, very much more than that. Probably I should assume it might hold several thousand gallons. 1257

Q. What else did you say you had there?

A. A small oil storage house for storing lubricating oils.

Q. For the machinery?

A. For the machinery.

Q. What is that, tank or building?

A. Building—a small brick building.

Q. What are its dimensions?

A. A small brick building, say 6 feet by 10.

1258 Q. When was that built?

A. I don't remember.

Q. Was it there before your time?

A. I don't think so. I think that we probably built it when we built the governor house.

Q. What else is there?

A. The rigging building on the corner of the fence at Avenue C and 15th Street.

Q. Is that a separate building, that rigging building?

A. Yes, a frame building.

Q. What is that for?

A. For storing the rigging, the scaffolding that
1259 they use in painting the big holder.

Q. A little wood building?

A. A frame building.

Q. Do you know the dimensions of it?

A. No, I don't carry that in mind.

Q. Well, is it 10 by 10, something like that?

A. I should say probably 15 by 20.

Q. One story?

A. One story.

Q. Now have I covered all that is on block 989, lot 1?

A. Except the enclosing fences, and the pipe con-
1260 nections.

Q. Then you have this fenced in?

A. Yes.

Q. This whole lot?

A. Yes, except across the easterly side.

Q. Why didn't you fence that if you have to guard your property, why was it you omitted a fence on that side?

A. Because there it abuts the property of the 1261
New Amsterdam Gas Company.

Q. What kind of a fence is it?

A. Around the holder, a wooden fence.

Q. About how high?

A. I should say about ten feet.

Q. Ten feet high?

A. Yes.

Q. Board up and down or crossways, or how is it built?

A. Why, I think they are horizontal boards tongued and grooved, as I recall that fence.

Q. How long has that fence been there?

A. I don't recall. They are reconstructing fences 1262
from time to time, and I don't recall when that particular fence that is there now dates from.

Q. Now, I have covered everything that is on that block, have I, or haven't I?

A. You have still missed the pipe connections.

Q. I beg your pardon?

A. You have still missed the pipe connections under ground.

Q. Tell me about the pipe connections?

A. They are the pipe connections in the building.

Q. Which building?

A. In that governor house, and extending from 1263
it to the south side of 16th Street, and then out into 15th Street.

Q. What sized pipes?

A. Thirty-inch and thirty-six-inch, is my recollection.

Q. When was that pipe connection put in there, do you know?

A. When we built the building, except the con-

1264 nection made to the holder which was there before, and we cut off and hooked on.

Q. Is that under ground?

A. Under ground.

Q. How do you know about its size? Were you there when it was put in?

A. Oh, I worked on all of that work. We are missing the photometer house that I have described, which is adjacent to and west of the governor house.

Q. That is to test the quality of the gas, is it?

A. It is.

Q. For this holder?

A. I should say at this point.

1265 Q. Well, how often are those tests made there?

A. I don't know. That is an operating matter.

Q. Well, is it used at all, this photometer?

A. It is. The last time I was in the building they were using it.

Q. Who was using it?

A. The man in connection with the plant.

Q. To test the candle power, or the British Thermal Units of the quality of the gas?

A. It is for testing the candle power. It is a photometer, not a calorimeter; it is a photometer.

Q. When were you there last?

1266 A. In the building?

Q. Yes.

A. Well, recently.

Q. When was that; yesterday?

A. Within a few weeks I was in the building.

Q. Didn't you see the purifier house when you were there?

A. Externally; I did not go in.

Q. Is it the New Amsterdam that has some plant 1267
on that block to the east?

A. They have a gas holder there.

Q. A gas holder?

A. Yes.

Q. Is it connected up with this gasholder that we have been talking about?

A. It is connected to the governor house.

Q. That is the New Amsterdam gasholder on that same block to the east, is connected up to this same governor?

A. Same governor house connections, yes.

Q. Where is the gasholder of this other com- 1268
pany which is connected, right on this first half of this——

A. The middle one-third of block 989.

Q. And have they any other works there, that is, the New Amsterdam Company, that is connected up with the works on this block 989, lot 1?

A. I don't know that I understand your question, Mr. Chambers. Do you mean have they anything here but a gasholder?

Q. You said that each of these companies has a gasholder there on that block?

A. Yes.

Q. The complainant and the New Amsterdam 1269
Company. Now, you say that the New Amsterdam gasholder is connected with the governor?

A. With the governor house connections, I said.

Q. With the governor house connections?

A. Yes.

Q. Is the New Amsterdam Company's holder connected or any other part of their plant, connected in any way with the building or pipes or apparatus of the Consolidated Gas Company there?

1270 A. I am not sure that I understand your question. Do you mean is any other plant at any place of the New Amsterdam Company connected to this; is that your question?

Q. Right there on that block?

A. There is no other equipment of the New Amsterdam Gas Company located at block 989 other than this gasholder connected through the governor house that I have described.

Q. Will the gas go from one holder into the other?

A. It can be sent from one to the other.

1271 Q. And either company can turn it out of one into the other and *vice versa?*

A. They could.

Q. They do, don't they?

A. I presume they do. That is a matter of operation.

Q. Is there a boiler house for the New Amsterdam holder?

A. There is not.

Q. So they use the boiler house of the Consolidated Gas Company?

A. The steam for cup heating for the New Amsterdam holder comes from these boilers that I have

1272 described.

Q. The name of that company is the New Amsterdam Gas Company?

A. Correct.

Q. Now, if it was not for the boiler house and boiler of the Consolidated Gas Company you have described, the New Amsterdam Gas Company would have to have a boiler there to operate their holder, wouldn't they?

A. For the holder, they would. Now, how about

a governor house, governor and valve house? Has 1273
the New Amsterdam Gas Company such an apparatus there?

A. They have not.

Q. So they use that also in connection with their holder, don't they?

A. I presume they do.

Q. How about a smokestack; that steel stack? Of course, they use that too; they must, naturally, using the boilers?

A. Well, it is connected to the boilers.

Q. Let me see if this does not correctly represent it. The boiler house and boilers, and everything relating to the boiler house and boilers, the gov- 1274
ernor and valve house, the steel stack and the photometer house, are all used by both companies in connection with the holder?

A. They are.

Q. Now, how about the appartus containing the holder? Do they both use that? You know what I mean?

A. Yes, I know what you mean, the scaffolding and rigging. My impression is they do.

Q. Now, what else has the New Amsterdam Gas Company on that block, aside from the holder?

A. You are asking me about New Amsterdam 1275
property now?

Q. Yes.

A. The fences enclosing the holder.

Q. And do they occupy the rest of that block?

A. They do not. The block at the easterly end, 91 feet wide, on the easterly end of block 989, is the property of the city of New York and occupied

1276 by buildings belonging to the Willard-Parker Hospital.

Q. Has the New Amsterdam Company erected a fence between 15th street and 16th street west of this 191 feet?

A. That is, separating the property of the city of New York from the property of the New Amsterdam Gas Company?

Q. Yes.

A. There is a fence across there; I don't recall who built it.

Q. But is there property fenced on the north side of 15th street and the south side of 16th street?

1277 A. It is.

Q. A board fence like the one you described?

A. Yes.

Q. So the way that really looks is like this: You take this pink portion of block 989, lot 1, of the Consolidated Gas Company's holder and minor buildings, and you continue right along and take in this piece fenced in by the New Amsterdam Gas Company, and it looks like all one piece of property with two holders, and then the various boiler houses, governor and valve houses, etc., in between?

A. You mean it looks that way on the map?

1278 Q. No, that is the way it is, isn't it? It is a piece of property there with two holders, and these things between?

A. There are two pieces of property, one belonging to the New Amsterdam property and one belonging to the Consolidated Gas Company.

Q. It is all boarded in with one fence?

A. Yes.

Q. I know it is two pieces of property, but it looks like one piece of property with two holders,

and the governor house and boiler house, etc., in between? 1279

A. That is your description of it.

Q. Isn't that a fact, except where the title is? It is all boarded up with one fence?

A. There is no fence between the two ownerships of the land.

Q. The fence is just around the property of the two companies?

A. That is correct.

Q. And inside the fence are the two holders with no fence between?

A. Correct.

Q. And nothing between the line of the two properties? 1280

A. That is correct.

Q. And between the two holders we find the governor house and valve house, boiler house, etc.?

A. Correct.

Q. Has the New Amsterdam Company any other property around this plant of the Consolidated Company that you know of, around the 14th street works?

A. They have not.

Q. That is all they have got, as you have described, that you know of? 1281

A. Yes.

Q. Where are their mains? Do you know where their mains come in for their holder?

A. No, I am not familiar with their mains.

Q. Well, is it the same main that supplies the Consolidated Gas Company's holder?

A. I don't know. That is a question of the mains in the street.

1282 Q. Now, this holder of the Consolidated Gas Company and the accessory buildings that you have described, is not used, is it, in connection with block 988, lot No. 1, in any way?

A. When they are making gas in the gas plant on block 988.

Q. The property on block 988, lot 1 is a coal gas plant isn't it?

A. It is.

Q. That is where you make coal gas when you make it?

A. It is.

Q. Now, what is on that block 988, Block No. 1,
1283 Sheet 3 of Exhibit No. 178? Let us take them one at a time?

A. On the northeast corner of 14th Street and Avenue C is the two-story office building.

Q. Northeast corner of 14th Street and Avenue C?

A. Yes, sir.

Q. Office building?

A. Yes, sir.

Q. How large a building is that?

A. It is a two-story building with a one story extension in the rear. I don't recall the dimensions
1284 of it. I would not describe it as a large building.

Q. Is it built of brick?

A. Yes, brick.

Q. When was that erected?

A. I don't remember.

Q. Before your time?

A. Yes.

Q. What kind of a roof, slate roof or shingles?

A. I don't remember what the roof on that building is. The extension I think that was in my time.

Q. Where is the extension? 1285

A. On the north side of 14th Street in the rear of the building on the corner.

Q. That is just an office building?

A. Yes, just an office.

Q. Who else uses that besides the Consolidated Company, anybody?

A. Nobody.

Q. You are sure about that?

A. I am quite sure that nobody else uses that.

Q. The New Amsterdam doesn't use that?

A. No.

Q. What kind of an office force, do people pay their bills there? 1286

A. Oh, no. It is the Works office. The Superintendent of the plant has his office there, and the clerical staff for the Works.

Q. For that particular coal gas making plant?

A. That is correct.

Q. What next have you got there?

A. Just north of that on the east side of Avenue C is a boiler and engine house, and a building that is used as a tin shop.

Q. How large a building is the boiler and engine house?

A. I don't remember the dimensions of it; it is 1287 two stories.

Q. When was that erected?

A. I don't know.

Q. Before your time?

A. It was.

Q. What is in that building, the boiler house?

A. The boiler and an engine.

Q. One boiler?

1288 A. One boiler.

Q. One engine?

A. Yes, sir.

Q. What kind of a boiler?

A. Fire tube boiler, ordinary return tubular boiler.

Q. What kind of an negine?

A. Ordinary reciprocating engine.

Q. Is that boiler and engine used to manufacture coal gas, or what do you use the boiler and engine for?

A. That boiler is hooked on with the boilers that I have already described on the other side of the
1289 street through a steam line so that the steam from the three boilers on the other side and this one are devoted to a common purpose.

Q. If that is so then the New Amsterdam also uses this boiler?

A. The steam can all go in together.

Q. What other buildings have you there?

A. North of that on the east side of Avenue C is a building that has two engines and two exhausters and a machine shop upstairs.

Q. What are those used for?

A. The exhausters are used on the hydraulic
1290 mains of the retort.

Q. Where are those retorts?

A. In the building which I have described last Thursday as located in the middle of Block 988.

Q. We will come to that in a minute. How large a building is that last one you described, not the one in the middle of the block?

A. The one in which the engines and exhausters are?

Q. Yes. 1291

A. I don't recall; it is a two-story building.

Q. Is it a wood building?

A. No, brick building with slate roof.

Q. And one story?

A. Two stories. There is a machine shop upstairs.

Q. You said you didn't know when it was built?

A. Yes.

Q. It was there when you entered the service of the company?

A. It was.

Q. What is the machine shop used for?

A. The machine shop is used on the repair work 1292
around the plant.

Q. And also up on Block 989, too?

A. No, repair work around the plant.

Q. Would that include the New Amsterdam holder, too?

A. I should say not. It is for repairing machinery.

Q. Well it would be to repair this governor house, valve house, etc., which is used by the New Amsterdam Company?

A. Yes, it might be used for that.

Q. To that extent they share in the use of it? 1293

A. They might.

Q. Now, what else, what other buildings?

A. On the southeast corner of 15th Street and Avenue C is a two-story shop building, blacksmith shop downstairs and carpenter shop upstairs.

Q. What is that used for?

A. In connection with the work around the plant.

Q. What?

1294 A. Repair work and other work.

Q. In connection with what is on Block 981, Lot 1, and also here?

A. Yes.

Q. To that extent the New Amsterdam Company would share?

A. Oh, I don't know how much that might be. I suppose such a situation might arise.

Q. Well, it is a fact, isn't it, that the New Amsterdam Company hasn't a thing there except the holders and the land?

A. It is a fact that the New Amsterdam has nothing there but the holder and those connections.

1295 Q. What else is there on Block 988, Lot 1?

A. Just east of the shop building described, and on the south side of 15th Street there is a condenser house containing two multitubular condensers.

Q. What is that used for?

A. Condensing the gas produced on Block 988.

Q. How large a building is that?

A. Oh, I don't recall its dimensions at all.

Q. How tall a building?

A. Well, it is two stories in height, but it is a clear story, it has no second floor.

Q. Is it a wooden building?

1296 A. Brick with slate roof.

Q. How long has that been there?

A. I don't know.

Q. Was it there when you entered the service of the company?

A. It was.

Q. What else is on that block?

A. On the south side of Block 988, and north of the north side of 15th Street, and east of the office

building described, are two tower scrapers and a 1297
rotary scraper.

Q. Well, those are used in the way of purifying the coal gas?

A. To remove the ammonia products of the gas.

Q. How large a building is this?

A. That is not a building, that is apparatus. There are two of those towers, built of cast iron, and they are about forty feet high and about sixteen or eighteen feet in diameter.

Q. Were those there when you entered the service of the company?

A. They were.

Q. Anything else on that piece of property, Block 1298
988?

A. In the brick building alongside of the tower scrapers is a rotary ammonia washer driven by a steam engine.

Q. Was that there when you entered the service of the company?

A. I have some impression it was put in in my time, in the early part of it.

Q. Do you know the cost of it?

A. No.

Q. Anything else on that block?

A. East of the tower scrapers and the condenser 1299
house described before as being on the south side of 15th Street, is the retort house which extends clear through the block from 14th to 15th Street.

Q. What is that retort house used for?

A. It encloses the retort benches.

Q. What are they used for?

A. The carbonization of coal for the production of coal gas.

1300 Q. How large a building is that?

A. That building must be some 300 feet long.

Q. How wide?

A. The full width of the block, 206 feet 6 inches.

Q. And how tall?

A. Why, it is one story.

Q. Is it wood?

A. It is iron and steel construction, slate roof, brick walls.

Q. How long has that building been there?

A I don't know.

Q. Was it there when you entered the service of the company?

1301 A. It was.

Q. What else is on that block 988?

A. There is all of the coal gas equipment in that building, such as the charging and discharging machines, and there is a multitubular condenser, and in the northeast corner of the coal shed there is a toilet room, a large toilet room, and in the easterly end of the retort house there are overhead hoppers for filling the hoppers of the charging machines.

Q. Were those things all there when you entered the service of the Company?

1302 A. The toilet room was not. It is a building built inside of the retort house a few years ago.

Q. An ordinary toilet room?

A. It is built with brick walls and has modern plumbing and toilets.

Q. How many toilets?

A. I don't recall. It will accommodate possibly twenty men; fifteen or twenty men, I think. I think there are something like twenty fixtures.

Q. With the exception of the toilet, were all of 1303
these things in there when you entered the service of the Company, speaking of the retort house?

A. No.

Q. What was not?

A. Some of the charging machines have been added in my time.

Q. You mean they have taken out their charging machines and put in new ones?

A. I think they increased the number. As to taking any out, I don't recall.

Q. How many charging machines are there?

A. I don't recall.

Q. If there is one they could not have increased 1304
the number?

A. Oh, there are several, Mr. Chambers; I don't recall just how many.

Q. But aside from that, all these things were there when you entered the service of the Company, aside from what you have stated?

A. As far as I now recall, except as far as the retort benches have been reconstructed.

Q. Anything else on that block?

A. On the easterly end of block 988, occupying the full front on Avenue D is the coal shed.

Q. For the storage of coal with which to make 1305
the gas?

A. Yes.

Q. What is the capacity of the coal shed?

A. Trimmed it will hold 10,000 tons.

Q. What are they, just wooden sheds?

A. No, it is a brick building with slate roof.

Q. How tall?

1306 A. It is about 30 feet from the sidewalk to the eaves.

Q. How do you get the coal there?

A. It is brought up in carts and dumped in tubs inside of the doorways on the south side of 11th street.

Q. It is taken there in trucks, though; the coal has to be brought in trucks?

A. It has to be carted there, yes, and dumped in those tubs of the distributing apparatus, and it is operated by power, and the coal is distributed inside the building.

Q. Is there anything else on that block?

1307 A. There is a building which connects off the westerly side of the coal shed building described to the easterly end of the retort house. It is called generally the coke passage. It is a building say 30 feet wide connecting the coal shed and the retort house and running through it is this Robins belt conveyor which takes coal from the coal shed and delivers it to the two overhead hoppers in the easterly end of the retort house, and from those hoppers it can be put into the hoppers of the charging machine.

Q. Where do you store the coke in this plant?

1308 A. The coke is put in the yards north and south of the building called the coke passage.

Q. Without any cover over it?

A. Over the coke, yes.

Q. And that is a by-product, isn't it?

A. It is.

Q. Anything else on that block?

A. Just west of the coal shed and north of the coke passage there is tar and ammonia tanks.

Q. Were those there when you went into the service? 1309

A. They were not.

Q. When were those built?

A. About 1913.

Q. What is their capacity?

A. I don't recall.

Q. Is there more than one?

A. There are two large tanks, and I think a smaller one, but the substantial part of it is two large tanks.

Q. They hold what; ammonia?

A. Tar and ammonia.

Q. Well, tar is a by-product, isn't it? 1310

A. It is.

Q. And ammonia, is that a by-product also?

A. It is.

Q. Now, have you covered everything in that block that you can think of?

A. I described a belt conveyor, didn't I, and the coal-handling machinery in the coal shed? West of the coal shed, and just north of the north side of 11th street is a small brick building in which is the motive power for the coal-handling machinery in the coal sheds.

Q. Is there a cycloidal impeller there? 1311

A. You mean to ask me, are there exhausters at that station having cycloidal impellers?

Q. Yes.

A. There are three exhausters at that station having cycloidal impellers.

Q. Now have you described everything that is on that block?

A. As near as I can recall.

1312 Q. Have you observed from time to time about the use of this particular plant for the making of coal gas?

A. In a general way, yes.

Q. Haven't you generally made that gas out of gas oil in recent years?

A. Why, we have made both coal gas and water gas.

Q. No, I am asking you if you haven't generally made your gas out of gas oil, what is known as water gas, rather than coal gas?

A. We have made both water gas and coal gas.

Q. All the while, for the last four or five years?

1313 A. You mean the Consolidated Gas Company?

Q. Yes.

A. Why, we doubtless have made more water gas than coal gas, but most of the time we have been making coal gas too.

Q. If it is true that you made only 18,800,000 cubic feet of gas in this particular plant here in 1918, and none since, that plant has been idle for about a year and a half, hasn't it?

A. Oh, no.

Q. You wouldn't say that? When was that plant last operated?

1314 A. We were using it during the year 1918 on carbon.

Q. For what?

A. For carbon.

Q. But not for making gas?

A. No.

Q. Whom were you making carbon for?

A. The United States government.

Q. That was a little matter between the company 1315
and the United States government?

A. I think it was a pretty big matter.

Q. Well, it has no relation to the gas consumers of the city?

A. I think it had a very vital relation to their interests.

Q. The government was paying the company for making this product, was it not?

A. I presume they did, but those are matters with which I had nothing to do.

Q. You don't mean to say that the company was performing a philanthropic act, do you?

A. I mean to say that we took a very great in- 1316
terest in what we were doing.

By the Master:

Q. You don't understand that the Consolidated Gas Company was working for the government for nothing, do you?

A. I do not.

By Mr. Chambers:

Q. That plant has really been withdrawn, or was withdrawn from the gas making business in 1918, wasn't it?

By the Master:

Q. You have not been making coal gas there since 1317
1918, have you?

A. We haven't made any coal gas there since 1918.

By Mr. Chambers:

Q. Then it was withdrawn from the gas making business?

The Master: I think that is simply a conclusion. The fact is that they have not been using it for the making of coal gas.

1318 Q. How about 1919? Have you operated that as a gas plant?

A. We haven't made any gas there in 1919.

Q. Isn't it a fact that the company is going to give that plant up?

A. I have no such belief.

By the Master:

Q. Have you any knowledge on the subject?

A. My best knowledge is they are not.

By Mr. Chambers:

Q. Are you making any coal gas in any other plant?

A. Of the Consolidated Gas Company?

1319 Q. Yes.

A. Not at the present time.

Q. Have you any other coal gas plant except this?

A. The West 42nd Street station.

Q. We will come to that. There is one other?

A. There is.

Q. Is there anything more than the one you have just mentioned?

A. That is all.

Q. So the company has two coal gas plants?

A. That is correct.

Q. Now, the force that was employed in this par-

1320 ticular plant in 1918 and 1919 in the service of the government, was that the regular force, or did you add to the regular force in order to make this product for the government?

A. I am not familiar with that, Mr. Chambers. That belonged to the manufacturing department.

Q. How much of a force does it require there to make coal gas with that plant running at full capacity?

A. I don't know.

1321

Mr. Ransom: I think I shall object to this. He has not undertaken to testify as to the details of the force.

The Master: The question has already been answered.

Q. Now, take Block 991, Lot No. 1. Has that been sold, or something has happened to that, hasn't it?

A. It has not been sold.

The Master: That is the Booth & Flinn piece, isn't it?

Q. That is owned by the Consolidated Gas Company, you say, according to the deed that was 1322 offered in evidence?

A. Yes.

Q. Did you check it up with those deeds?

A. I have testified that the dimensions of Block 991 are from a judgment of the Supreme Court.

Q. Well, I am asking you, did you check it up?

A. With the judgment of the Supreme Court.

Q. Did you go and get the judgment?

A. I did.

Q. Where, to the County Clerk's office?

A. No, we have a certified copy of it that has been put in evidence here.

1323

Q. And you used a certified copy issued in some proceeding for the basis of your dimensions?

A. I did.

Q. Now, there is not a single thing on that block that belongs to the Consolidated Gas Company, is there, by way of structures?

A. There is a brick boiler house on the southeast corner of 15th Street and Avenue D, belonging to the Consolidated Gas Company.

1324 Q. What kind of a boiler is that?

A. There was a vertical boiler and engine in there.

Q. Is there now?

A. I don't know what Booth & Flinn have done inside of that building.

Q. Well, you turned it over to Booth & Flinn?

A. Yes.

Q. And that is so of the entire block, isn't it?

A. That is correct.

Q. That is leased to them?

A. Yes, sir.

Mr. Chambers: Will you furnish us with
1325 copies of that lease?

Mr. Ransom: I think we will be able to.

Q. Booth & Flinn are in what kind of business?

A. Contractors.

The Master: I believe that was pretty thoroughly covered, Mr. Chambers.

Mr. Chambers: I ask counsel now to withdraw Block 991, Lot 1, from this case.

Mr. Ransom: I certainly will not withdraw it.

Mr. Chambers: I am going to ask more questions about it unless he will withdraw it.

1326 Mr. Ransom: I will certainly not withdraw it.

The Master: Wasn't it pretty thoroughly covered?

Mr. Chambers: Well, no, they still insist it is a gas property.

Q. If that is leased to Booth & Flinn, who told you to put that on your map in pink?

A. No one told me to put it on the map in pink.

Q. How long have Booth & Flinn had possession under the lease of that property? 1327

The Master: Wait a minute until I find this in the record. I don't think we will waste a lot of time going over this. It is covered pretty fully.

Mr. Chambers: If your Honor will hold it is out of the case——

The Master: No. I will not do that. If it is not perfectly clear on the record that Booth & Flinn for some four years had had part or all of this property in their exclusive possession, except that the gas company on one or two occasions have transported some coal over the 1328 bulkhead, I am going to let you examine. But if it is perfectly clear on the record that there has been no gas used, what is the use of spending another hour on it?

Q. Booth & Flinn have the dock, too, have they?

A. The bulkhead.

Q. You call it a bulkhead?

A. Yes, sir.

Q. Is there any wharf or dock there?

A. You mean a pier of any kind extending beyond the bulkhead?

Q. Yes. 1329

A. No.

Q. Do they land boats there?

A. They bring their barges up there.

Q. And you can unload them from the bulkhead?

A. You can.

Q. Well, can you there?

A. We do. There are miles of that on Manhattan Island.

1330 Q. Booth & Flinn, do they use the bulkhead?

A. They do.

Q. Their business is what, principally?

A. Building tunnels by the compressed air process.

Q. When did you land any barges there, your company?

A. Why, when we were preparing to run the plant in the winter of 1917-18, and when it was operated——

Q. You said in 1918 that it was run exclusively for the government?

1331 A. I have not finished yet. I say when we were preparing to operate the plant——

Q. What I want to know is——

Mr. Ransom: Let him finish the answer, please.

A. Let us see what the question is.

Mr. Chambers: I move to strike out the answer as not responsive.

Q. What I ask is, when, since Booth & Flinn leased that, has your company loaded any barges at the bulkhead?

A. When we were preparing to make gas at that plant in the winter of 1917-18, we used it then. We 1332 unloaded some thousands of tons of coal there and put it into storage, and then at the time we were operating the plant for the manufacture of carbon we used it.

Q. Couldn't you just as well have unloaded your barges at the foot of 15th Street?

A. They have that, too.

Q. What is that? Who has that?

A. Booth & Flinn.

Q. You mean that Booth & Flinn have the public 1333
highway in 15th Street?

A. They have leased that from the city.

Q. As I look at it, 15th street runs right down to the East river?

A. It does.

Q. And 15th street is a public highway?

A. Yes, and the city leases bulkheads that belong to the city.

Q. They have leased that?

A. They have; they have a structure built on it.

Q. You didn't make any coal gas in 1918, you said?

A. Except as far as they have made some in the 1334
early part of 1918. That is a matter of record.

Q. Where did you have your apparatus, at the foot of 15th street, or opposite lot 47 in block 991?

A. Just above the word "block".

Q. Where it says "block"?

A. Yes.

Q. How many barges did you have? One?

A. Only one at a time.

Q. That didn't take up very much space, did it?

A. Well, I suppose it took one-third of the length of the bulkhead.

Q. Now, you had some arrangement with Booth 1335
& Flinn about that, I suppose, or did they let you do it for good will's sake, or what?

A. I don't know how much good will there was in it. I went to them and told them we would have to unload some coal there.

Q. And you did?

A. We did.

1336 Q. And you didn't pay them anything for it, did you?

A. I don't know anything about whether we paid them anything for it. I know I unloaded the coal; that is all. I was sent there to do that.

Q. How long did you use it as a place for unloading one boat there?

A. I don't know how long we were unloading the coal.

Q. Three or four days?

A. More than that.

Q. A week?

A. More than that.

1337 Q. A month?

A. Well, possibly even a month or more. We were unloading a considerable quantity of coal there.

Q. Anyway, the Company saw fit to lease this entire property to Booth & Flinn?

A. I don't think they had much choice about it.

Q. You mean they had to make the lease?

A. Why, sure. The Public Service Commission could have taken possession of the property if they did not.

Q. Do you mean to say that that lease was under

1338 compulsion?

A. No, not directly under compulsion, but the company was doubtless aware of the powers of the Public Service Commission.

The Master: Mr. Chambers, on page 262 of record, I asked the witness this question:

"Then for at least two years and possibly four, all of block 991, lot No. 1, has been used by Booth & Flinn, and no part of it has been

used by the Gas Company for manufacturing 1339
gas. A. That is correct." Now, can you get it any clearer than that on the record?

Mr. Chambers: I would like to ask Judge Ransom if he is going to insist throughout this case that the consumers should bear the burden of carrying that piece of property?

Mr. Ransom: I shall show on behalf of the complainant that this plant is an integral and necessary part of the property used by this complainant in its gas-business; that this land which is here referred to is a necessary part of the property for the use of this 14th Street plant; that Booth & Flinn are occupying it 1340
because the paramount power of the city through the Public Service Commission, under the Rapid Transit Act compelled the Company for a period, which unfortunately has been prolonged, to give up the use of this land to the extent to which normally it would have been used; we shall show that this property as to which questions are now being directed, is a part of the property upon which we believe we are entitled to earn a return.

Mr. Chambers: Well, that is challenged.

Mr. Ransom: We shall show the circum- 1341
stances under which the Public Service Commission took possession of that property and for a period which was not expected to be anything like as long as it has proved to be.

Mr. O'Brien: That you can charge the consumers with that on that statement? You would have to go pretty far to lead to any logical, legal conclusion on that.

1342 The Master: Gentlemen, we have heard enough.

Mr. Ransom: We will submit the facts.

Mr. O'Brien: These are the facts.

The Master: Mr. O'Brien——

Mr. O'Brien: This is a discussion.

The Master: I don't want any discussion.

Mr. O'Brien: He put a statement on the record, and we might as well make it plain.

The Master: He stated what he is going to do. If he falls short of what he says, he is short of it. He cannot make a case by making statements on the record. Let us go ahead.

1343 Q. Now, 14th street runs down to the river?

A. It does.

Q. Why didn't you unload your barges there at the foot of 14th street?

A. At the foot of 14th street at that time there was not sufficient depth of water outside the city's bulkhead.

Q. Is there now?

A. I don't know now. At that time when I took Booth & Flinn barges to make room for our coal, I ran aground there.

The Master: Mr. Chambers, whether he did
1344 or did not carry some coal over the bulkhead, or whether he could or could not have taken this in in some other way, by some other direction, does not help the Gas Company very much, one way or the other?

Mr. Chambers: I don't think so.

The Master: It either is or is not an integral part of the plant necessarily used for the making of gas. The fact remains that for four

years, more or less, they have not used this 1345
dock. There is testimony on the same page to the effect that they used it for coal storage. Now they may or may not have a right to say, "We want to use it for coal storage again. The mere fact that some coal was taken over the bulkhead does not make any difference in this case, I think. If you think it does, go ahead. I am simply calling attention to it for the purpose of saving time.

Mr. Chambers: I might say for the information of the Court that we complain that not only block 991, but this whole plant here is obsolete. 1346

The Master: That it is in the discard. I got your point naturally from the questions that you asked.

Q. Now, the National Coal & Coke Company have some sign there, haven't they, on block 988, lot 1? Did you ever see that sign?

A. That is a sign that is still on the works office at the northeast corner of 11th street and Avenue C, but it does not correctly indicate any occupancy by them of that building. There was a time years ago, when temporarily, until their offices were provided, they had a couple of clerks working upstairs. 1347
They moved out of there long ago, and I am surprised that the sign has not been taken down.

Q. Isn't it a fact that the National Coal & Coke Company take the coke, have a delivery of the coke that is made there, or which results from the making of gas at that plant?

A. Taking it away?

Q. Yes. Don't they have a delivery there right

1348 on the block? Is not the coke, as soon as it comes out of the plant, doesn't it belong to and is it not the property of the National Coal & Coke Company?

A. Automatically, the minute it is produced? I don't know.

Q. Well, before it leaves that block?

A. I don't know that it becomes their property. I should not understand so.

Q. You know they have some arrangement whereby they take the coke from this company?

A. That is a merchandising arrangement that I only know of in a general way. I know that they sell the Consolidated Gas Company's Coke. The
1349 details of the transactions I am entirely ignorant about.

Q. Then you don't know whether they use some of that lot or not?

A. I know that they do not use the office where that sign is that you referred to.

Q. But the storage of the coke there, etc., you don't know under what arrangement it is done?

A. No.

Q. Now, turn to sheet No. 4 of this Exhibit No. 178. Now, that is what you call the 17th department yard and holders?

1350 A. Yes, sir.

Q. You have two holders in the westerly end of that lot, haven't you?

A. We have.

Q. Take the one on the southwest corner; what is the capacity of that holder?

A. 250,000 cubic feet.

Q. That is a small holder?

A. It might be so described.

By Mr. Master: 1351

Q. That is a very small holder comparatively speaking, isn't it?

A. Yes, sir.

By Mr. Chambers:

Q. Is that telescopic?

A. It is.

Q. How long has that been there?

A. I don't know.

Q. Before your time?

A. Yes.

Q. Doesn't bear evidence of being a very old holder?

A. I should say it was an old holder, yes. 1352

Q. How about the other holder, at the northwest corner of the lot; what is its capacity?

A. Same capacity, 250,000 cubic feet.

Q. Is that telescopic.

Q. Doesn't that bear evidence of being a very old holder?

A. I should say so.

Q. You would not say that those two holders are up to date, would you, or anywheres near up to date?

A. Why, for 250,000 cubic feet holders, they might be perfectly good 250,000 cubic foot holders. 1353

Q. I am not asking you what might be; are they?

A. Up to date as compared with what?

Q. With the holders that are built now.

A. I should say that we build a holder now that would be better than those.

Q. Are they in use?

A. You mean do they contain gas?

Q. Yes.

1354 A. Not to my knowledge.

Q. And haven't they been out of use for a long time?

A. You say "a long time"; I don't remember.

Q. Haven't they been out of use for say ten years?

A. No, I don't think so.

Q. Well, what is the best answer you can give us on that?

A. I think we have had gas in them at a much later date that that; I really can't tell you.

Q. When did you last look at them?

By the Master:

Q. Is it quite some years since any gas was in
1355 those holders?

A. I am sure it is less than ten years.

Q. Is it more than five years?

A. I really don't remember.

Q. Well, it is a substantial number of years?

A. I have not been connected with the operation of those holders, and so I cannot give you a better answer than I have given.

A. Well, you have told us from time to time about gas being in other holders, and the actual working of other parts of the plant, from your observation. Now, give us the best of your recol-
1356 lection as to how long it has been since these holders have been used to contain gas?

A. There is no circumstance in my memory that enables me to fix a time when we last had gas in these holders, but I am sure it is less than ten years.

The Master: I will state for the record, so that counsel for the gas company will note it, that the impression this witness leaves on my mind in his testimony with reference to these

holders is that they have not been used for 1357
pretty nearly ten years for holding gas. I cannot get anything more definite from the witness. If my impression is wrong you can correct it.

Mr. Ransom: We expect to produce the chief gas engineer of the company, who will testify to those things which a gas engineer naturally knows, as to just when these holders were used for gas, just what relation they bear as a part of the reserve system of the company, and those things which are in the field of a gas engineer.

The Master: I want to be perfectly frank 1358
with you. I wanted the witness to give us a date, and he could not, and the impression on my mind now is that it has been a good many years since these holders were used for containing gas.

Mr. Ransom: I have been unwilling to object to some of the questions asked of this witness, because your Honor's evident feeling has been that although the questions asked on cross examination were not within the scope of what was asked on the direct-examination, any information which this witness has might as well be brought out. 1359

The Master: Yes.

Mr. Ransom: Now, this is a type of question concerning which I have expected on behalf of the complainant, and do expect, to offer the testimony of the Chief Engineer covering points on which, of course, his testimony is far more directly probative than the testimony of Mr. Alrich possibly can be. The points on

manufacture we shall cover by the gas engineer of manufacture, and not by the one who has charge of construction.

The Master: Well, he testifies that there were certain gas holders there, and that was a very proper question, whether they were being used, and he said no, and then it was a proper question to ask how long it had been since they were used.

Mr. Ransom: May I call your Honor's attention to a possible distinction? There may be a distinction between a question whether a holder is in use as a part of the company's essential system, and whether there is gas in it at a particular time.

The Master: I understand that.

Mr. Chambers: Now, if the Master please, you are an excellent trial lawyer. Mr. Ransom asked him what use was made of these, and I am allowed to go into details.

The Master: Oh, yes. Perhaps I should not have said what I did, but I think it is the Court's duty, whenever a question develops that he has a definite opinion on, to give his opinion so that counsel will know where they are.

Q. Are those holders connected up with any mains?

A. As far as I know.

Q. You don't know whether they are or not, do you?

A. I have no knowledge of their having been cut off.

Mr. O'Brien: I move to strike out the answer as not responsive. 1363

The Master: I think it is, I will let it stand.

Mr. O'Brien: Exception.

The Master: It carries the inference that they were connected at one time, and that so far as he knows they have not been cut off. I think that is a perfectly proper——

Q. The fact that it is not in use would indicate that it has been cut off, wouldn't it?

A. Oh, no.

Q. Now, what is the condition? They bear evidence, do they not, of being dilapidated and run down, or didn't you notice that? 1364

A. I have not examined the holders.

The Master: Hasn't he already stated that they bear evidences of being pretty old?

Q. Why didn't you make an examination of them so you could tell us whether they were cut off or not?

A. Because I was never directed to examine the holders.

Q. In the middle of that block is another building. What is that?

A. You mean just east of the holders?

Q. Yes, just east of the holders? 1365

A. A boiler house.

Q. Used in connection with those two holders?

A. Correct.

Q. Have those boilers been used to your knowledge in recent years?

A. They would have been used in connection with the holders.

1366 Q. If the holders are not used the boiler is not used?

A. The boiler would be used whenever the holders were used.

Q. And if you take down the holders, dismantle the holders, the boiler, that building goes too?

A. Not necessarily.

Q. What would you use the boiler for without the holders?

A. You could use that boiler in connection with the street department's operations in that block.

Q. What street department, of the city?

A. No, of the Consolidated Gas Company. We
1367 call the Department of Mains and Services the street department.

Q. In what way?

A. They could doubtless use it for heating their buildings there.

Q. That building on that same lot?

A. Yes. They had the easterly end of the block.

Q. How big a building is that?

A. It is a group of buildings there. All told those connected buildings might be described as four. They are adjacent structures on the northeast corner of the block there.

1368 Q. Are those old buildings?

A. All of them had been built in my time.

Q. Built in your time?

A. Yes.

Q. And those are used by what you call your street department?

A. Yes.

Q. You mean in digging up the pavement and preparing the mains?

A. Putting in the mains and services. 1369

Q. New services?

A. Yes, and mains.

Q. Now, that building could just as well be put, or you could just as well have that department on Block 982, couldn't you, just right in this same locality, Sheet No. 3, Block No. 982?

A. Which building?

Q. This street department building, or group of buildings could just as well be on Block 982, Lot No. 13. It would be just as accessible, wouldn't it, as it is here?

A. I don't know. That is a matter of depart- 1370
mental convenience on which I would not express an opinion. They are very well situated where they are.

Q. What kind of buildings are they, wood?

A. They have one brick building, which is the first, and they have another building of sheet steel, and then they have two buildings of steel frame partially covered with corrugated iron. Then there is a frame building, and there is a frame building just east of where the No. 7 is, that encloses the electrically driven hoisting machinery belonging to the derrick, the yard derrick there.

Q. Well, this building in that block is less than 1371
a stone's throw from the 14th Street property that we have been talking about?

A. A stone's throw?

Q. Just around the corner?

A. I don't know whether I could throw a stone that far or not. One is between 17th and 18th Streets, and one is between 14th and 15th Streets.

1372 Q. Well, the big holder is between 15th and 16th?

A. Yes.

Q. Now, there is a considerable portion of that block that is not occupied by any buildings?

A. Block 985?

Q. Yes.

A. Occupied by the necessary material of the Department of Mains and Services, their cast iron pipes and fittings.

Q. Where is that stored?

A. All over the area, even crowded up around the holder at times.

1373 Q. When did you last take a look at that lot?

A. I was in the office of the superintendent there within a few weeks.

Q. Did you look around to see if there was material stored there?

A. There was, all over the center part and the easterly part.

Q. What kind of material?

A. Cast iron pipe and fittings.

Q. Do you know whether any of that belonged to the New Amsterdam Company or any of other of these companies?

A. I am quite positive that none of that material
1374 belonged to any company but the Consolidated.

Q. Now, the Consolidated Gas Company does a lot of street work for these other companies whose names you have mentioned, like the New Amsterdam, the Standard, the Mutual——

Mr. Ransom: I call your Honor's attention to the fact that this is far beyond the scope of anything asked on direct examination.

The Master: Let him answer, if he knows.

A. I only have a general impression that they 1375
do some work for some of the companies, but whether there is one for which they don't do any work, I cannot say. I just have a general knowledge.

By the Master:

Q. Is it knowledge or impression? Do you have to deal with it, or is it simply your understanding or impression, from what you have heard?

A. It would be my understanding that they do some street work for other companies.

Q. That is based on things you have heard?

A. Yes, sir.

Q. Not from any personal contact that you have 1376
had with it?

A. That is correct.

Q. You don't know of it of your own knowledge, do you?

A. No, sir.

By Mr. Chambers:

Q. Lots 19 and 20 in block 983, those apparently idle pieces of property?

A. Oh, no, they are pretty well built up. The last time I saw them, within a couple of weeks, they were pretty well built up with cast iron pipe and fittings. I remember distinctly that there were 1377
some elbows there, cast iron elbows.

Q. How many, about?

A. Oh, some dozen of elbows of different sizes, and I think there were some drip castings there.

Q. Have you any other place where you store fittings or pipe?

A. For the Consolidated Gas Company?

Q. Yes.

1378 A. Two other yards.

Q. Where are they?

A. 66th street and West End avenue, and 111th street and First avenue.

Q. None other in this vicinity here?

A. No.

Q. On sheet No. 5 of Exhibit No. 178, that is what you call the 21st street and Avenue A property?

A. Correct.

Q. That is still right in this same vicinity with these two other last features we have been talking about?

1379 A. Yes, in the same general vicinity.

Q. Well, it is only a few streets away?

A. Yes.

Q. They are all right in a row, according to your map here?

A. Yes.

The Master: According to any map.

Mr. Chambers: These nice little red balloons here are all in a row.

The Master: We will take judicial notice of the fact that they are within a few blocks of each other.

1380 Q. Now, block 951, sheet No. 5, of Exhibit No. 178, you have that block covered in red?

A. Yes.

Q. Lot 35?

A. Yes.

Q. On that is what, a three-story brick stable?

A. Correct. Blacksmith and repair shop.

Q. What is that used for?

A. The horses belonging to the street depart-

ment for this district, that is the district there at 1381
the 17th street yard, the horses for that district are kept there, and also the horses used in connection with this 21st Street station, which lies to the north and east.

Q. Does that stable occupy the whole lot?

A. It is 176 feet long, and of the 92 feet of depth, the building is doubtless 40 to 50 feet wide, and then these one-story buildings are in the rear, and then the wagons are put in there; also some horses are put in there for the meter department.

Q. That is in the same situation as this street department on block 985, isn't it, so far as their doing work for other companies is concerned? 1382

A. I should say not.

Q. Well, you don't know of any other company around here that has any stable for horses, any other gas company, do you, except the Consolidated, of these companies you have mentioned?

A. The Mutual Company, I guess, has stabling facilities of its own.

Q. Here in this locality?

A. Down at its own works.

Q. Any of the others?

A. None of the others have any station around here. 1383

Q. How old a building is that stable?

A. I don't know when it was built, but I know that within my experience they did a lot of reconstruction work there.

Q. How many stories is it?

A. Three.

Q. Brick?

A. Brick, yes.

1384 Q. And what kind of a roof?

A. I don't remember the character of the roof construction, but I think it is slate.

Q. Aside from repairs, etc., that building was there when you entered the services of the company?

A. It was more than repairs, Mr. Chambers. We did quite a lot of reconstruction there inside that building.

Q. But the main building is there, is it?

A. The brick walls and the roof were there substantially when I was employed by the company.

Q. All you did was to make some interior re-
1385 pairs?

The Master: He said interior reconstruction.

Mr. Chambers: Or reconstruction.

A. We did more than that.

Q. What did you do?

A. We put in new ramps in the rear so the horses could be taken upstairs.

Q. What else?

A. Rearranged the numbers of the stalls and work of that character; and the feed bins. Then upstairs the harness repair room.

Q. When did you make those repairs? All be-
1386 fore 1908 or 1909?

A. Oh, yes, I think it was before that.

Q. Across the street, across 20th Street, is Lot 952?

A. Correct.

Q. On that, on the westerly end, is a holder?

A. Correct.

Q. What is the capacity of that holder?

A. One million and a half cubic feet.

Q. When was that built? 1387

A. I don't know. It was rebuilt in my time.

Q. Then these holders have to be rebuilt once in a while. Here is one had to be rebuilt, did it?

A. It was rebuilt.

Q. Why was it rebuilt? Had it gone to rack and ruin, as they say up in the country? Judge Ransom will bear me out they use that sometimes—the farmers.

A. No, it had not gone to rack and ruin, but we made extensive repairs to it.

Q. When did you repair it?

A. 1912—put it out of commission, put the water out of the tanks and rebuilt—extensive reconstruc- 1388
tion work to the shells.

Q. How much money did you spend on it, about?

A. Oh, while I knew at the time, I do not carry all these things in my head.

Q. Was it in a dilapidated condition?

A. It was not.

Q. Why did you spend the money on it, then, if it was all right?

The Master: This witness would not be supposed to know that.

Q. Is it the same kind of a holder generally as the others you have described? Is that a very 1389
large one?

A. Only it has a masonry tank instead of a steel tank.

Q. What territory does that holder serve?

A. I don't know.

Q. Is it being used now?

A. It surely is.

Q. When did you last see it?

1390 A. Saturday.

Q. And was it being used then?

A. It was.

Q. What mains lead into it?

A. Mains from this 21st Street Station of the company.

A. Any other company's mains lead into it that you know of?

A. They do not.

Q. Any other companies have any holders nearby?

A. Only the New Amsterdam holder that we have referred to.

1391 Q. The one we have been talking about a little while ago?

A. In East 15th Street; correct.

Q. What else is there on that Block 952, Lot 7?

A. The engine and governor house on Lot 35, on the southwest corner of Avenue A and 21st Street.

Q. What do you use all that space for between this holder and that Lot 35? A. Storing coal.

Q. Is this a coal gas?

A. No, but water gas requires anthracite coal.

Q. Isn't there a tennis court in there?

A. They recently cleared a small space out there

1392 just west of the building and put up a tennis net. They shoveled the coal off to one side.

Q. Any way, the tennis court is there with a tennis net?

A. The tennis court is there, yes.

Q. And surely you do not need a tennis court to make water gas?

The Master: You need not answer that; that is quite apparent.

Q. On Lot 35, how large a brick building is that?

A. In general 70 feet wide and 65 feet long, two-stories high, and a basement.

Q. And the first story of that is used by the com- 1393
pany?

A. It is.

Q. The second and third are not used by the company?

A. The second story. There are no three stories. There are two stories and a basement.

Q. The second story is used by the company?

A. It is.

Q. How old a building is that?

A. I don't know when it was first built, but we have reconstructed it. We tore the whole inside out of it.

Q. When did you do that, about 1906? 1394

A. Well, the paint is not dry on the last attack, Mr. Chambers.

Q. No, now that is not answering the question.

A. In 1911 and 1912, as I recall, we reconstructed all the floors in the building and put in those steel beams and steel plates, stripped out all the trim, wood trim in the building, replaced it with steel—tore the whole inside out.

Q. How much money did you spend?

A. I don't recall. I knew at the time, but I don't carry all those figures in my head.

Q. There is just one building on there? 1395

A. They would not need any books. The company would not need any books if I did.

Q. Just one building on that lot?

A. On Lot 35? Yes, unless you would describe that new extension that we have just completed as a separate building. We call it a part of the same building.

Q. When did you build that extension?

A. Why, the paint is not dry yet, I think.

Q. Well, that does not give us any information. Last year?

1396 A. No, no, this year.

Q. Did you build it during the war times?

A. We did.

Q. So far that is the only structure that you have testified to that was erected since the United States declared war on Germany; isn't that right?

A. I have not heard of any other that I recall. That is the first I recall at this moment, yes.

Q. Is there anything else on Lot 35?

A. No.

Q. Lot 30?

A. Lot 30 is a three story brick building.

Q. That is the one where the Consolidated Gas
1397 Co. does not use the second and third story, isn't it?

A. I have no knowledge of any one else occupying any part of the building.

Q. Well, what is the second and third story used for?

A. All of the building so far as my knowledge goes is used for storage.

Q. When did you last go there and look at this one on Lot 30?

A. Outside I saw it on last Saturday. I have not been inside the building in a long time.

Q. It may turn out that you do not know about
1398 it, may it not?

A. If anybody but the Consolidated Gas Co. has any property in that building 329 Avenue A I don't know it.

Mr. Chambers: I think that ought to be stricken out—that last answer.

The Master: Why?

Mr. Chambers: Because I am asking him if he knows of anything else.

The Master: I think he has answered the question.

Q. How about Lot 29?

A. There is coal on that lot now. There was 1399
pipe stored there, but there is coal on it now.

Q. Whose coal?

A. Belonging to the Consolidated Gas Co.

Q. Where is that used?

A. In the water gas plant on Block 979.

Q. Why didn't you put that coal where the lawn tennis court is and sell that lot off?

A. I did not do the shoveling.

Q. Is there anything else on that block that we have not covered—Block 952?

A. A small valve house in connection with the holder.

Q. Where is that? 1400

A. It lies off as you might say northwest of the holder. Then the brick fence walls that enclose the property.

Q. Is the entire property enclosed?

A. Yes, except so far as the buildings furnish enclosure.

Q. How about this little white indentation here? Did you run your brick wall in and around that?

A. That is two tenement houses that close the gap.

Q. Is there any fence in back of the tenement house?

1401

A. An iron fence, woven iron fence.

Q. That is not the Consolidated's property, is it?

A. It surely is. Their employees live in both houses.

Q. What is that?

A. Their employees working in this plant live in both houses.

Q. Then they own those tenement houses?

A. They do.

Q. You did not include those in the tinted area?

A. I did not.

1402 Q. That was not an oversight, was it?

A. Not on my part.

Q. Block 979. That is a water gas plant?

A. Did I refer to the brick fence walls enclosing this Block 952?

Q. You said it was enclosed with a fence.

A. Heavy brick fence walls.

Q. You said woven wire fence in one answer.

A. No, not the rear of the tenement house. Long stretches of 400 or 500 feet.

Q. Old fences, are they?

A. Oh, no, we built them within a few years.

Q. How recently?

1403 A. 1916.

Q. And before that you did not have it fenced in?

A. Yes, part brick and part timber.

Q. Why did you tear down the old fence?

A. I don't recall the circumstances. We took them all down and rebuilt them.

Q. How tall is the fence?

A. About 12 feet.

Q. And how wide is it?

A. They are 12 or 16 inches.

Q. Just an ordinary brick fence, isn't it?

1404 A. Correct—with masonry coping.

Q. Block 979, that is a water gas plant?

A. Correct—part of a water gas plant.

Q. Where is the rest of that?

A. On blocks 978, 953, 952, 951 and 987.

Q. I would like to ask you about Block 953. You have got six holders there?

A. We have.

Q. On the easterly end of the block?

A. They occupy very much more than that. They occupy doubtless over half the block.

Q. Isn't it less than half?

A. Oh, no. I don't think so. 1405

Q. What?

A. I don't think so.

Q. About half the block?

A. No, I think they occupy more than half the block.

Q. It is the easterly end of the block?

A. It is the easterly end, but it is more than half I am pretty sure.

Q. Well, aren't they in rows like that (indicating map)?

A. Yes, but that is not a correct pictorial representation of them. You just draw six circles; that does not represent the proportions. 1406

Q. I did not ask you that?

A. Oh, yes you did.

Mr. O'Brien: Well, there are four of one size and two of another; isn't that it?

The Witness: That is correct.

Q. There are three on the easterly end of the block, on 22nd Street, and three on the 21st Street easterly end of the block?

A. Well, I don't accept that description "easterly end". I am quite positive that the six holders collectively as a group occupy more than half of block 953. 1407

Q. They are the easterly half?

A. The easterly half; correct.

Q. Now, give the size of these holders?

A. The four storage holders have a capacity of 400,000 cubic feet each and the two relief holders have a capacity of about 360,000 cubic feet each.

Q. Where are the two relief holders?

A. On Avenue A, the easterly end.

Q. What did you say the relief holders had, 250,000?

A. 360,000.

The Master: The other holders about 400,000?

1408 The Witness: 400,000; yes, sir.

Q. When were those holders erected?

A. The two relief holders were built, one in 1912 and the other in 1913, as I now recall.

Q. And the others?

A. Were built when I came with the company.

The Master: That is before you came with the company?

The Witness: Yes.

Q. The other holders, do they bear evidence of being very old?

A. They do not.

Q. That is the other four?

1409 A. No, they are very good looking holders.

Mr. Chambers: I move to strike that out.

The Master: No, I think it is an answer.

Mr. Chambers: I am asking for evidence of their being there some time.

Q. Well, they are 19 years of age anyway, are they not?

A. Yes.

Q. And may be lots more?

A. No, I would not say lots more.

The Master: They are over 19 years old.

Q. And are those the telescopic holders?

1410 A. They are.

Q. Are the relief holders the same too?

A. The relief holders are also telescopic.

Q. Is there anything else on that block 953, lot 1, except these six holders?

A. Yes.

Q. What else?

A. In connection with the four storage holders and lying between them there are three valve houses, and then between the two relief holders and two storage houses there is a two-story shop, brick building. In the angle of the fence at the

southwest corner of 22nd Street and Avenue A 1411
there is a brick building for the storage of tackle and in the corresponding——

Q. Storage of what?

A. Tackle, rope, scaffolding, and things of that kind. In the corresponding angle of the brick fence at the northwest corner of 21st Street and Avenue A there is a paint shop and the westerly end of this block along First Avenue is occupied by the company's garage.

Q. How old a building is the valve house or valve houses? Are there more than one?

A. Three.

1412

Q. How old are they?

A. I don't know.

Q. Were they there when you went into the service of the company?

A. That is my best recollection.

Q. How about the shop; is that an old building?

A. I judge it was there when I entered the employ of the company, but it has undergone some considerable repairs.

Q. When were the repairs made?

A. After these two relief holders were done.

Q. That is the repairs of the holders were made in 1912?

1413

The Master: In 1913.

A. After 1912.

Q. The tackle building—is that a building?

A. Yes, storage building, brick building.

Q. Is that one story?

A. Yes.

Q. A small building?

A. Yes.

Q. When was that built?

A. I do not know.

Q. Was it there when you went into the service of the company?

1414 A. I don't remember.

Q. How about the paint shop?

A. I don't remember.

Q. Is that a frame building?

A. Brick.

Q. One story?

A. Yes.

Q. Do you know its floor space per square foot or cubic yard?

A. No, a small building.

Q. Was that there when you went into the services of the company?

A. I don't remember. I have an idea it was
1415 built after I went in.

Q. The westerly end of this block is idle, isn't it?

The Master: No, he said there was a garage there, the company's garage.

Q. The company's garage is on the western end of this block?

A. Yes.

Q. How much of the western end of the block is occupied by the garage?

A. Why, I should say all of the western end, taking the property between First Avenue and a line 215 feet east of First Avenue and parallel
1416 thereto.

Adjourned to Tuesday, July 29th, 1919, at 9:45 A. M.

Last Complainant's Exhibit No. 181.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 1417

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 29, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. HAYWARD (by JOHN H. CLARK, Jr.), 1418
of Counsel for Public Service Commission
MR. O'BRIEN, of Counsel for defendant Swann.

HERBERT W. ALRICH, resumed the stand:

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

The Witness: There are one or two corrections that I would like to make in the record. 1419

At page 459, folio 1377, question by Mr. Chambers:

"Q. How many about? A. Oh, some dozen of elbows of different sizes, and I think there were some drip castings there."

The answer I gave was, "Oh, some dozen of elbows of each of different sizes, and I think that there were some drip castings there."

1420 At page 375, folio 1125. The answer as it appears there is,

"A. Yes, 65 feet wide and 184 feet long."

That should be 84 feet long instead of 184 feet long.

Mr. Ransom: There are various other errors in the record of which we are making a list as we go along.

By Mr. Chambers:

Q. Now, to go back just a little bit, we were speaking of the six holders on Block 953, Lot No. 1, is it?

A. That is correct.

Q. Will you put upon that block the approxi-
1421 mate location of those six holders?

Mr. Ransom: I raise the question whether it is very desirable to have rough pencil drawings made on original exhibits. We have to reproduce these matters in a court of record, and mere lead pencil approximations on the spot, and on an original exhibit, I raise a doubt as to its desirability. For the information of counsel I have no objection to such markings being made on any of these exhibits his own or any other, but I raise the question as to what your Honor's judgment is. If you
1422 think it desirable we make no formal objection

Mr. Chambers: I suggest that it would aid materially in the case if counsel would have this same exhibit No. 178 prepared so as to show upon all these pink pieces of property the location of the structures.

Mr. Ransom: You have complete access to the property with engineers.

The Master: That is somewhat of a job

do not think that I want to order surveys made of each building so as to locate accurately every structure on this exhibit. I do not think it is at all necessary to the decision in this case. What difference does it make, Mr. Chambers, whether those six holders are ten feet one way or another? 1423

Mr. Chambers: It does on some of the blocks. Here is a very large block, and the structures are all on this end. Your Honor may hold that just because they have a few pipes on a block, in the corner of a block, all spread out, knowing they are about to bring this case or have brought it, they have property all over the city on which they put a little shack, or a few pipes, and it becomes important for your Honor to determine whether a part of that property is really not outside of the investment in the gas business. If I can show your Honor that half of that block only is necessary really to carry on the gas business, why then that would be important. 1424

The Master: I shall rule that the testimony up to this point is substantially clear to the effect that those six holders on that block do not occupy more than approximately one-half or possibly something less than one-half. 1425

Mr. Ransom: A little more than one-half, I think the witness testified.

The Master: Approximately one-half or a little less or a little more than one-half of that block. I do not think it is very important whether it is ten feet more or less. The witness says that his judgment is that it is some-

1426 what more than half. Your witness may testify that it is somewhat less than half, but whether it is ten or fifteen or twenty feet, I don't think makes any substantial difference. Of course if the block is substantially used for purposes other than gas purposes the Master will be able to determine it fairly accurately.

With reference to the witness indicating on any map or drawing, the approximate location of the tanks, or these holders, I shall permit him to indicate it on your copy of the Exhibit, and then if you want to offer that in evidence, that check made for that purpose,
1427 I will allow it. But I think I will rule that I will not permit the original exhibit to be marked up that way.

Q. Well, then, will you put it on this copy?

The Master: Of course, you are asking the witness to do nothing more than he has given us in his oral testimony.

Mr. Chambers: We have had no inventory of their property, and I take it they are giving us an inventory through this witness.

The Master: Let us see about this inventory. Am I correct in my understanding that in the
1428 trial of what is called the original gas case, decided by the United States Supreme Court, an inventory was put in the record?

Mr. Ransom: No. There was testimony of certain witnesses which set forth the property.

The Master: In other words, they made up the inventory; they gave lists of the property used?

Mr. Ransom: They gave them not what they

evidently regard as an inventory, which is 1429
somewhat of a list of original cost figures, of quantities with original cost figures.

Mr. Chambers: No, no cost on it; just original property.

The Master: Now wait a minute. Let us talk about that for a second. Is it not a fact —and I am asking for information, because I have not seen the record of the first case——

Mr. Chambers: Neither have I. I cannot get a copy to read, or time to read it either.

The Master: Is it not a fact, if anybody knows, that in that case the Court determined the fact that the property then proved to be 1430
used for gas purposes had a certain value at that time.

Mr. Ransom: That is so.

Mr. Clark: The Master did.

The Master: The Master's decision was affirmed.

Mr. Ransom: The Master made certain elaborate findings——

The Master: As to values?

Mr. Ransom: As to values. Then there were certain respects in which judge Hough in his opinion had the decree of the Supreme Court 1431
changed as a matter of fact, and the findings of the Master.

Mr. Chambers: He cut them down.

Mr. Ransom: In certain respects, and increased them in certain others. Then the matter went to the Supreme Court of the United States.

Mr. Chambers: He did not increase any.

1432 Mr. Ransom: Well, certain figures, I said. The matter went to the Supreme Court of the United States, with the result which is embodied in the opinion there.

The Master: Won't I be bound in this case by the values established in that first judgment?

Mr. Chambers: Not at all.

The Master: As of that date?

Mr. Chambers: No. That is his contention. Now, let me explode that here now.

The Master: Let us hear it.

Mr. Chambers: I have been waiting for that

1433 to come out.

The Master: I would like to hear argument on that. I have been wondering whether I was not bound by these findings at that time.

Mr. Chambers: Assuming that that is his contention, we maintain that the former judgment is not *res adjudicata* or binding on the defendants in this case, for this reason: the case was tried before the Master and he made his findings; these findings were modified by the Circuit Court or District Court—Circuit Court, I guess it calls itself—and on an appeal

1434 to the United States Supreme Court here is what happened. The judgment below was reversed and the Court directed that the complaint be dismissed without prejudice to the bringing of a new suit. Then that was a mistrial and the complaint was dismissed. Therefore, the dismissal of a complaint upon the merits, a judgment having been entered accordingly, there is no adjudication at all upon the

facts here that is binding. You see, the com- 1435
plaint was dismissed.

The Master: It was dismissed, however, on the ground, as I understand it——

Mr. Ransom: Just let me say just a word.

Mr. Chambers: I had not finished. They did not bring the action *de novo*. This is a new summons, a new complaint. There is nothing said in it at all about the former judgment; there is no plea in the complaint that the former judgment is *res adjudicata*. In other words, this complaint, unless I am mistaken, does not mention the former judgment 1436
at all.

Mr. Ransom: Why, it surely does.

Mr. Chambers: As being binding. It mentions that you brought an action before.

The Master: Do not interrupt, Judge Ransom.

Mr. Chambers: Here is what your complaint says——

The Master: I have read the complaint; I have examined it.

Mr. Chambers: It says that you have brought your former action and it speaks of the result, and you finally say, in words, that the United 1437
States Supreme Court reversed a judgment, directed a dismissal of the complaint, and then you say the complaint was dismissed.

The Master: No, but this is my point, Mr. Chambers——

Mr. Ransom: May I just be heard?

The Master: No, just a minute, please. This is what is in my mind. There is a good deal

1438 of difference, of course, between the rule of *stare decisis* and *res adjudicata*. You will agree with me on that, won't you? A matter may have been decided and yet the decision not be binding in the shape of a former adjudication. Now, in the action which went to the United States Supreme Court a vast amount of time was consumed in taking testimony as to the physical property then used in the manufacture of gas, and its value. The Master in that case found that certain property was used in the manufacture of gas at that time and did fix a value. That record was examined by
1439 the District Judge or the Circuit Judge——

Mr. Ransom: The Circuit Judge, yes.

The Master: And by the Circuit Court of Appeals.

Mr. Ransom: No, by the Supreme Court of the United States.

The Master: Didn't it go to the Circuit Court of Appeals?

Mr. Ransom: It did not.

The Master: At any rate, it went to the United States Supreme Court, and the matter argued in the United States Supreme Court
1440 was the question of law based upon certain findings of fact. The conclusion of the United States Supreme Court was that the facts found, as modified but as ultimately settled in that case, did not justify a finding of law by the United States Supreme Court that the statute was clearly confiscatory, as I understand it. That being so, I have not in mind at all that that judgment is binding upon anybody, or

that there is any rule of *res adjudicata* to be invoked. But the point that was in my mind was whether those findings of fact were not *stare decisis* in a way, upon that situation. 1441

Mr. Ransom: May I just say a word there?

The Master: Yes.

Mr. Ransom: The situation was, this prior suit was brought at the time, of course, when prices were very much different, both as to property values and operating expenses. In that case very elaborate testimony was taken as to value, both as to real value, and as to the various other elements of physical property. The Master's findings were elaborate and complete. Judge Hough in certain respects, rather minor respects, modified, and then the case went by direct appeal from the Circuit Court to the Supreme Court of the United States. The Supreme Court of the United States held, as your Honor has indicated, that upon the facts as found, the margin was so close between confiscation and reasonableness of return upon a six per cent. basis that they would not disturb the statute in advance of its going into effect; that is, they laid down the rule, which they have since followed, that there must be an experimental trial unless the facts are so clear on the basis of the company's past experience, that by no possibility would the rate fixed by a limiting statute yield a fair return. And here they said that, assuming that the six per cent. return was an adequate return under the facts as found, the margin was too close to warrant their setting aside the action of the 1442 1443

1444 state in advance of an actual test. And so they dismissed the complaint or directed its dismissal, with a specific reservation of leave on the part of the complainant, to come back on the basis of its actual experience under the lowered rate.

In this case we are back on the basis of our experience under the rate, and on the basis of the present condition, and our complaint alleges that the value of your orator's property devoted to its gas business as of December 31, 1905, as found by the United States Supreme Court in the said former suit, etc., was fifty-five
1445 million and some hundreds of thousands; that there has since been added thereto property which has cost your orator not less than $14,000,000, etc., making the total value under normal conditions of your orator's property, presently devoted to its gas business, at least $69,000,000.

So far as a matter of the effect of the judgment of the Supreme Court as a determination of the controversy, which would be the *res adjudicata* rule, I take it that it has no bearing, because there was a specific reservation of
1446 leave to renew, and the *res adjudicata* rule would operate against the company rather than in its favor if it were applicable here at all. So far as the effect and status of the record of the prior suit, and the findings of the prior suit are concerned, I think that what your Honor has indicated is indubitably correct—that it has a probative value here as a starting point, which your Honor is inclined to take into

account, because for certain reasons, as will 1447
appear, the question may not be here merely as to the present value, but also as to values at previous times we are presenting our situation and our experience.

The Master: You do not claim, Judge Ransom, that because at this particular time things that you have, matters that you use in the manufacture of gas, and of unusually high cost—that that must be the basis of the determination?

Mr. Ransom: We do not, of course, rely upon anything which is abnormal or anything which 1448
is out of the ordinary as an average condition. That is, we do not stand merely upon what you may call war costs as such, or abnormally high prices as such. We present the whole situation.

The Master: I think that I shall have to take all of the testimony offered from either point of view, because it would be unfortunate if I were to adopt one point of view and rule out a line of testimony and then have the Appellate Courts hold that I should have taken testimony on another line. It seems to me I have got to take all of the testimony from the point 1449
of view presented by the defendants, as well as the point of view presented by the complainant. When all the testimony is in I shall have to make up my mind as to whether I am going to take the values as of 1908 or 1909, or whatever it was, as fixed by the Court in that other case, and——

1450 Mr. Ransom: That was as of December 31, 1905.

The Master: Well, whenever that case was. If I ultimately conclude to stop with that basis of value, the record being complete, if the Appellate Court should find that I was in error—I do not want to indicate that I will adopt that rule, but I have been wondering about it, thinking about it. But if I should ultimately conclude that the record should be complete so that you will have it before the Appellate Court, that is the only thing to do.

1451 Mr. Ransom: We shall wish to argue that question which came up very unexpectedly this morning, more at length; but if your Honor, in view of the view you have indicated and in view of the provision of the equity rule——

The Master: This is the way my mind operates: The courts want to get the facts; in an action previously tried the Master probably spent months—I do not know how long, but probably a long time——

Mr. Ransom: A year.

The Master: Well, a year—in arriving at a state of facts, and reached a conclusion as to
1452 the value of the property in 1905. December 31st, is that the date?

Mr. Ransom: December 31, 1905.

The Master: Why should the courts be burdened with the same testimony to determine the value as of that date.

Mr. Chambers: I will tell you why. Because——

The Master: Just a minute. Beginning

with that date, things added or taken away or abandoned in the use of gas, must be taken into consideration. But it did seem to me, as I heard the testimony going in, that there ought to be some method of eliminating work that has already been done. That is very important. 1453

Mr. Chambers: I will tell you why. The Master said in his report that he disregarded the real estate values submitted by the defendant because they had not spent six weeks in examining the property. Now we are proposing to cure all that, we are entitled to it, and on behalf of all the defendants I am going to say here now that we are going to ask for a trial *de novo*, we are going to claim the former trial is of no value because you plead the complaint was dismissed, and we are entitled to go over every bit of property. 1454

The Master: If your evidence merely indicates to my mind that the previous Master reached a conclusion widely at variance with the facts, I am not going to hesitate to take it.

Mr. Chambers: He said right in his opinion there that he disregarded the real estate values of Thompson and the other witness submitted by the defendants, because he says complainant's real estate experts spent six weeks in examining the property, while these two defendant's experts only examined it casually or some other way. Now we propose to cure all that and it will change the result. 1455

The Master: I was wondering whether there was any agreement between counsel.

1456 Mr. O'Brien: So the counsel for complainan
may understand our position, representing th
District Attorney, I want to say we shall in
sist, and when I say that, of course, I mea
that we will expect to take advantage of
failure to produce evidence entirely anew a
to the value of the complainant's property
Our position is that they must prove their cas
de novo, that there is no value to them, no ad
vantage in what was found either by the Ma
ter or by the Court or by the United State
Supreme Court, the complaint having been di
missed.

1457 The Master: I think perhaps you are righ
on that, Mr. O'Brien.

Mr. O'Brien: Furthermore, your Honor, th
whole state of the law has been changed sinc
that decision was arrived at by the Unite
States Supreme Court. We shall insist her
that the only value of the property is th
original cost, which was not shown in the firs
place, or where the original cost may not b
obtained, the estimated original cost; that th
reproduction cost now is not a measure tha
may be adopted by the Court; that they ma

1458 not claim any value in their present proper
for money that was spent at the time of th
consolidation for the buying or purchasing
franchises; that that element will have to b
eliminated; that the cost of pavement, amoun
ing to several million of dollars, will have
be eliminated, and that the only way in whi
the case may be presented to the Court, i
order to put the Court in a position in dra

ing its conclusions, to conform with the de- 1459
cisions of the United States Supreme Court,
is that they must prove their case beyond a
reasonable doubt—the severest and we may
say the supreme demand of evidence, such as
would be required in a criminal case. They
must produce all of this evidence from the be-
ginning. Of course, complainants may sub-
mit any proof they want; if they are content
to put in certain proofs, they can submit them,
but we shall insist upon our right in present-
ing our case to show the value of this prop-
erty from the beginning along the lines indi-
cated. May I say this too, in concluding, that 1460
the Court has well suggested or hinted at the
desirability of having all the parties hereto
present full proofs, because the higher courts
will not pass upon inadequate proofs, and it
would be futile, it would be a wanton waste of
moneys, of corporation moneys and city
moneys, public moneys, to have a case go up
to the United States Supreme Court and not
have adequate proofs there to sustain any find-
ing or determination on the part of that court.
And I want to say along that line, your Honor,
that they have declared that they will not, on 1461
an agreed statement of facts, make a deter-
mination. Were we to sit down here and go up
on an agreed statement of facts, that the
operating expenses are blank billion dollars,
that the value of the plant is so and so, the
United States Supreme Court will decline to
pass in a rate case on the issues raised, and

1462 they would also decline to make a holding in a rate case that comes up on demurrer.

The Master: I have already said, Mr. O'Brien, I am going to take all of the evidence and try to get it as complete as I can, and when I come to the point of reaching a conclusion and finding of facts, I am going to have you gentlemen argue out the basis of the contentions.

Mr. Ransom: We shall be glad to do it.

The Master: We will take everything bearing upon the issues, and within reasonable limitations. Proceed, Mr. Chambers. You

1463 asked the witness to put on your copy the approximate location of these six holders.

Q. Have you done so?

A. I have not.

The Master: Sketch it out.

The Witness: I was going to describe what I was doing.

The Master: No, just sketch it out.

The Witness: (Marking on map.) I have sketched the six holders on the sheet.

The Master: Put XSs in the circles which you indicate.

1464 Q. That you have done?

A. That I have. I have done it *de novo*, disregarding the six circles that were on the print when it was handed to me.

Q. How am I to distinguish your circles from the others?

The Master: He has put X marks in his circles.

Mr. O'Brien: Have you done this *de novo*?

Your Honor, may I ask if the witness is now 1465
marking the original exhibit?

The Master: He is not, he is marking Mr. Chambers' copy.

Mr. Chambers: He is marking the Attorney General's copy.

Mr. O'Brien: I suppose counsel will submit to us a diagram showing the buildings?

The Master: No, the witness has sketched for Mr. Chambers on his copy of the exhibit the approximate location of these holders as he has testified with reference to them. Now, if Mr. Chambers wants to mark that in evidence so it is an exhibit in the case I will receive it. 1466

Mr. O'Brien: Are we to understand that the complainant will not give us an inventory or a diagram of their properties?

The Master: I do not know what you understand, Mr. O'Brien. Do you want to mark that in evidence, Mr. Chambers?

Mr. Chambers: Yes, I will mark that, not in evidence, but for identification.

The Master: That is sheet what?

Mr. Chambers: Sheet 5 of Exhibit 178.

The Master: With six circles and an "X" mark on them indicating the six holders as 1467
sketched by the witness Alrich is now offered for identification by Mr. Chambers and is marked Defendants' Exhibit A for Identification.

Marked Defendants' Exhibit A for Identification.

Q. Where are the pipes that supply those six holders? Where did they come from?

1468 A. The works in Block 979.

Q. Are there any other company's pipes leading into those holders that you know of?

A. I know that there are no other company's pipes leading into those holders.

Q. That you are quite sure about?

A. I am.

The Master: Mr. Chambers, may I interrupt to just put a correction on the record. On page 406, at folio 1217 and folio 1218, the question was asked, "You do not mean to say it is right down to date in its construction?" The answer is: "I say there is nothing in the United States
1469 of America that excels the steel tanks of that holder." Then followed another question, and then Mr. O'Brien moved to strike out the answer of the witness as not responsive. The answer which Mr. O'Brien moved to strike out was the answer which stated, "I say there is nothing in the United States of America which excels the steel tank of that holder", and the Master ruled that was not responsive. That is an answer to the question, "You do not mean to say it is right down to date in its construction?" Am I right about that, Mr.
1470 O'Brien?

Mr. O'Brien: Yes.

The Master: The ruling is separated from the answer to which you made your objection and it really is not clear upon the record.

Mr. Chambers: In other words, the motion to strike out simply relates to that answer?

The Master: The answer stricken out was, "I say there is nothing in the United States o

America that excels the steel tank of that holder", because I rule that was not responsive to the question, "You do not mean to say it is right down to date in its construction." I think with the statement I have made on the record, if all counsel are in accord with my recollection, that is clear. 1471

Mr. O'Brien: As a matter of fact I move to strike out the intervening answer now. It is just as objectionable. He says, "I say there is nothing in the United States of America that excels the steel tank of that holder." That is not only not responsive but it is presumably not within the witness' qualifications. 1472

The Master: Well, I have stricken it out.

Mr. O'Brien: That was given while I was rising to make my objection.

The Master: You see, your motion came after another question had been answered and another question put—the second question, and I wanted to make it clear on the record what I struck out.

Mr. O'Brien: That is the answer, then, that your Honor struck out?

The Master: That is what I wanted to make clear on the record, that is all. 1473

Q. The garage, you say, is on the westerly end of that block?

A. I do.

Q. And occupies about 215 feet?

A. That is my recollection.

Q. Does it extend clear to East 21st street?

A. The main building is on the north side of East 21st street facing on First avenue.

1474 Q. How far does it extend in the block, or easterly on 21st street?

A. 200 feet, with a driveway about fifteen feet wide beyond that.

Q. What is that garage used for?

A. The automobiles of the Consolidated Gas Company.

Q. Any of the other companies?

A. I have no knowledge of any joint use of that garage.

Q. How much knowledge have you on the subject?

A. I have frequently been in the garage.

1475 Q. And you saw the Consolidated Company's automobiles?

A. Yes.

Q. None of the other companies' automobiles in there?

A. I saw an automobile of the Standard Company that I guess was serving as a delivery wagon.

Mr. Chambers: I move to strike out what he guesses. I asked him what he saw. He said he saw an automobile of the Standard. That is all right, but I move to strike out his guess. He guesses what it was used for. That is not

1476 responsive and I didn't ask him that.

The Master: Strike it out.

Q. Did you see any other companies' automobiles in there except the Standard?

A. When you say saw them in there, there is a great deal of traffic of delivery wagons going in and out. I might see a hardware——

Mr. Chambers: I object.

A. You mean being worked upon, repaired, 1477
stored—no.

Q. I asked you if you saw—you saw the Consolidated Gas Company's automobiles there, didn't you?

A. I did.

Q. And you saw one of the Standard there. Now, did you see any of any of the other companies' in there, whether being worked upon or otherwise?

A. I saw automobiles and vehicles there of other companies for different purposes from those for which the Consolidated Gas Company's automobiles were there.

Q. Well, then other gas companies' automobiles 1478
were in there?

A. An automobile occasionally.

Q. What is that, a repair shop?

A. For the automobiles of the Consolidated Gas Company only and garage.

Q. Now, how do you know that?

A. How do I know?

Q. Yes; how do you know it is not also for the Standard and the Mutual?

A. I have frequently been in that garage and in the repair shop, and I have never seen an automobile of any other companies there other than the 1479
Consolidated Company, under repair.

Q. You have just stated you saw other companies' cars in there?

A. Coming into the yard, yes.

Q. Did you stay to see whether they came in and went out?

A. No, I am not the watchman.

1480 Q. Now, is it not a fact that that garage is common to all the companies?

A. I should say it was not.

Q. On what do you base that answer?

A. My observation.

Q. Is that all?

A. On my observation.

Q. Now, how often do you visit that garage, a week or month or year?

A. I might go there several times in a week, and I might go there once a month.

Q. Well, you might go there once or twice a year, might you not?

1481 A. Well, I have been there more frequently than that.

Q. Is there anything else in that block 953?

A. I have already described in addition to the buildings of the garage, three valves houses——

Q. You described those.

A. Tin shop, rigging and storage building, and a paint storage building, and a brick fence which surrounds the block.

Q. You described those. The entire block is surrounded by this brick fence?

A. Except so far as the garage buildings furnish

1482 an enclosure.

Q. How high is this fence?

A. It is a pretty high fence and is probably twenty feet above the sidewalk.

Q. And how wide is it?

A. As I recall, a 12 inch wall, with 4 inch pilasters, making a gross thickness of say 16 inches; that is from recollection only.

Q. And how old—when was the fence built?

A. A portion of it has been rebuilt in my time. 1483

Q. Well, what year?

A. 1912, 1911 or 1912, is my best recollection.

Q. And what portion of the fence was rebuilt, and where?

A. The portion at the southeast corner of 22nd Street and First Avenue and extending eastwardly therefrom.

Q. And how many feet?

A. I should say about 200 feet.

Q. The rest of it was there when you entered the service of the company, was it?

A. It was, as far as I recall.

Q. What was in place of that part of the fence 1484 which you rebuilt, what was there before you rebuilt it?

A. A building.

Q. So you did not rebuild the fence, you substituted a fence in place of a building?

A. We took down the building and reconstructed a fence there.

Q. Well, that is a misnomer, isn't it, to say you reconstructed the fence when there was none there before?

A. Well, I think I made a correct statement that we reconstructed whatever acted as an enclosure. 1485

Q. Is there anything else now on that block No. 52, other than you have mentioned already?

A. There is a retaining wall across the block from orth to south that would pass about through the tter "B" in the word "Block" and that retaining all might be described as the westerly boundary the whole property and the easterly boundary of e garage property. It forms a dividing line. The

1486 yard level is in two elevations there, and this retaining wall is where it steps up about five or six feet.

Q. Do you know of any other garage in that vicinity which is maintained by any of these other companies, the New Amsterdam Company that you spoke of, other than this?

A. Any other garage in this vicinity?

Q. Yes, maintained by any of these other gas companies?

A. I am not familiar with the automobiles of the other companies.

Q. Now, you do not answer my question. I repeat it. I asked you, do you know in that locality

1487 of any other garage that is used by these other companies other than the Consolidated?

A. In this locality?

Q. Yes.

A. No, I don't recall any other garage in this locality belonging to the other companies.

Q. Now, the gas that is stored in these holders is supplied generally to the other companies, isn't it?

A. That is a matter beyond my sphere of knowledge.

Q. Now, you know that, don't you?

A. I do not.

1488 Q. Do you mean to say you haven't any knowledge on that subject, that the gas from these six holders is piped out and supplied to the consumers of the Standard, the New Amsterdam and other companies?

A. I have no knowledge of what is done with the gas from those holders.

Q. Did you ever diagram that, make any diagram

of the connection of the pipes of this company with other companies? 1489

A. I did not.

Q. Did you ever work for any other of these companies in this vicinity?

A. You mean was I an employee of any of the other companies in this vicinity?

Q. No, I didn't mean that at all.

By the Master:

Q. Did you ever do any work for these companies?

By Mr. Chambers:

Q. You said you often did work for the New Amsterdam and the Standard and the Mutual, and then you sent in your time to the Consolidated, but always were in the employ of the Consolidated. Now, then, you worked for these other companies around in the vicinity of this plant here on East 21st Street, did you? 1490

A. I have never done any work for any other gas company in connection with this 21st Street station of the Consolidated Gas Company.

Q. You mean by that that you have never been paid by any other gas company?

A. No, I mean——

Q. As an employee of the Consolidated Company, haven't you rendered services to these other companies? 1491

A. As an employee of the Consolidated Gas Company I never rendered any service to any other gas company in connection with work done in connection with the 21st Street station of the Consolidated Gas Company.

Q. Or for any other company, relating to their pipes in that locality?

1492 A. Around this station,—I have not.

Q. In that vicinity of the city?

A. The nearest would be down near the Mutual Gas Works on 12th street.

Q. Did you down there?

A. In connection with the Mutual Works.

Q. Have you never made any diagram of the pipes and mains and services in the street in the locality of this plant?

A. I have had work in hand in connection with the Works' connection of this plant.

Q. The services and the automobiles in that garage is for other companies, is it not?

1493 A. I have no knowledge that it is.

Q. Block 978, lot 6, what is on that lot?

A. The buildings in which there are the station meters.

Q. Where are those buildings located?

A. On the southeast corner of 21st street and Avenue A.

Q. That is on lot 5?

A. Correct.

Q. And what is in that building, the station meters?

A. The station meters.

1494 Q. How many of them?

A. There are seven.

Q. What is their make and capacity?

A. There are five wet type station meters of the American Meter Company, as far as I recall the make; one Wylie meter, and one rotary meter.

Q. How old is the rotary meter?

A. It was put in about 1906 or 1907.

Q. How old is the Wylie meter?

A. About a year before that.
Q. About 1905?
A. Yes.
Q. And the American meters?
A. I don't recall the dates when those five wet
eters were put in.
Q. Were they put in before your time?
A. Possibly some of them. I have quite a dis-
nct recollection of work going on in there with
hich I had no connection.
Q. What kind of a building is it which houses
ese meters?
A. A brick building with a slate roof.
Q. One story?
A. It is two-stories in height, but it only has
e one floor; it is what we describe as a clere story.
Q. What capacity floor space?
A. There is simply the space occupied by the
ters, and the alleys between, and also some space
ere the calorimeter is.
Q. Now, you see that obviously that answers
thing. I asked you what the floor space was.
w could an engineer give the value of that build-
when we don't know the floor space?
A. The building is substantially seventy feet
le and 92 feet long.
Q. Anything else on lot 5 except that building
l the meters inside?
A. The accessory piping and valves pertaining to
meter.
Q. Where do those run; over to the six holders
ss the street?
A. They do.

1498 Q. Now, lots 1, 2 and 3 are not colored in pink, the way it looks to me.

A. Nor lot 4.

Q. Where is lot 4?

A. Just south of lot 5.

Q. That is then that white area there in the corner?

A. It is.

Q. Now, is the whole of lot 5 occupied by this building?

A. Every square inch of it.

Q. When was that building erected?

A. I don't know.

1499 Q. Before your time?

A. It was.

Q. What buildings are on block 978, lot 6? Nine buildings, I think you said. Is that correct?

A. That is correct.

Q. Now, let us take them one at a time. First we will take the purifier house. There is a purifier house there, isn't there?

A. There is, just east of lot 5.

Q. How large a building is that?

A. In length it is the depth of the block, or 18 feet.

1500 Q. And the width and height?

A. In width it is about 65 feet.

By the Master:

Q. You mean by width, 65 feet frontage on 21st street?

A. On 21st or 20th street.

Q. It runs through the block?

A. It runs clear through the block.

Q. And about 65 feet wide?

A. About 65 feet wide. 1501

By Mr. Chambers:

Q. How tall is it, how many stories?

A. It might be described as a two story building, of course, the purifying apparatus is supported above the ground level, and there are galleries around the boxes.

By the Master:

Q. How high is it in feet?

A. I should imagine that up to the eaves the building was 35 to 40 feet.

By Mr. Chambers:

Q. Is it a wooden building or a brick building? 1502

A. It is brick.

Q. What kind of a roof?

A. Slate, as I recall.

Q. When was that erected?

A. I don't know.

Q. Before your time?

A. It was there when I came with the company.

Q. Now the condenser house, is that a separate building, where the condensers are located?

A. It is.

Q. How large a building is that?

The Master: Wouldn't it be better, Mr. Chambers, to get the building immediately east 1503 of this purifying building, then follow it to the end of the block?

Mr. Chambers: Perhaps so.

By the Master:

Q. What is built directly east of the purifier building?

A. Directly east of the purifier building is where the shaving scrubbers are.

1504 Q. How far away from this purifier building?

A. Immediately east.

Q. You mean contiguous?

A. Contiguous.

By Mr. Chambers:

Q. How large a building is that?

A. It is about 65 feet wide and extends through the block.

Q. One story?

A. It has no roof. It is a narrow brick enclosure.

Q. With a Chinese wall around it, I suppose, only smaller?

A. Yes.

1505 Q. Now, the one east of that.

A. East of that is the condenser and scrubber house.

By the Master:

Q. How close to the last building you described?

A. Immediately east of the shaving scrubber enclosure and contiguous thereto.

By Mr. Chambers:

Q. How large a building is that?

A. About 65 feet wide, and extending clear through the block.

Q. What height?

1506 A. About 35 to 40 feet.

Q. Brick?

A. Brick.

Q. How long has the wall you spoke of just a moment ago been there?

A. I don't know.

Q. Before your time?

A. It was there when I came with the company.

Q. Now, the building that you have last described, how long has that been there? 1507

A. I don't know.

Q. Before your time?

A. It was.

Q. Now, the next building to the east—are there any more buildings to the east?

A. The next is the other purifying house.

Q. Where is that located?

A. Immediately east of the condenser house.

Q. What kind of a building is that?

A. The same as the others I have described, about 65 feet wide, extending through the block 184 feet, and about the same height as the other buildings. 1508

Q. Was that there when you entered the service of the company?

A. The building was there, but I have some recollection that the roof was reconstructed.

Q. Well, was it?

A. That is my recollection, that the roof——

Q. When was it?

A. Shortly after I entered the employ of the company.

Q. Say about 1902?

A. Probably about 1902.

Q. What is in this last building, the purifying house, the purifying apparatus? 1509

A. Part of the purifying apparatus.

Q. And in that building you mentioned just before this one are the condensers?

A. Condensers and scrubbers.

Q. How many condensers?

A. Six condensers.

Q. How many scrubbers?

1510 A. Two.

Q. How old are those condensers?

A. I don't know.

Q. Before your time were they there?

A. They were.

Q. And the scrubbers, how many scrubbers?

A. Two.

Q. How old are they?

A. They date from 1907.

Q. Were they new then?

A. The scrubbers?

Q. Yes.

A. We entirely rebuilt them, using two shells,
1511 and reconstructing all of the interior apparatus.

Q. You do not answer my question. They were not new?

A. As far as the wall shell is concerned, no.

Q. They were second hand?

A. They were there.

Q. Now, what other building?

A. I am referring only to the two scrubbers in that building.

Q. Now, when you said there were nine buildings on this block did you include this wall as one of the buildings?

1512 A. This enclosure, I did.

Q. You would not class that as a building, would you, any more than you would class the wall around the block?

The Master: Then we will note it on the record that there are eight buildings with an enclosure. What is the use of spending a lot of time.

Mr. Chambers: I would not call it such. 1513

The Master: I don't either, but the fact is there are eight buildings and an enclosure.

Q. Now, are there any other buildings?

A. There are five more east of the purifying house last described.

Q. What are those five buildings?

A. Used for storage purposes, three for the storage of coal——

Q. All of them used for storage?

A. All five.

Q. Now, take one at a time. Take the first one of the five. How large is that?

A. All five of the buildings are substantially 1514 alike and about sixty or sixty-five feet——

By the Master:

Q. Running through the block?

A. Running through the block.

By Mr. Chambers:

Q. One story?

A. It is a very high one story, being the same height as the other buildings I have described.

Q. Why isn't it one building instead of five buildings?

A. Because they have solid brick walls dividing them.

1515

Q. And they are for storage?

A. They are.

Q. Have they roofs on them?

A. They have.

Q. What material are they made of?

A. The walls are brick.

Q. How about the roofs, what are they?

A. I do not recall the roof covering.

1516 Q. Are those old buildings? I mean were they there when you entered the service of the company?

A. They were.

Q. What do you store in those buildings?

A. We store coal in three of them, and refractory materials, and oxide in the other two.

Q. Now, oxide is a by-product?

A. It is not, it is a purifying material.

Q. Yes. What else is stored besides those things you have mentioned?

A. That is substantially all.

Q. Somewhere on that block is a structure owned and maintained by the government, is there
1517 not?

A. On Block 978?

Q. Lot 6, yes.

A. There is not.

Q. Is it on Block 987 that the government maintains some structure?

A. On Block 987, yes.

Q. Instead of 978?

A. Instead of 978.

Q. Well, we will move over to that and see what is there. What is on Block 987?

A. On the north side just south of 21st Street
1518 is a 500,000 gallon oil tank surrounded by a reinforced concrete basing, and below it——

Q. No, we will just take that oil tank. How old is that, how long has that been there?

A. Since 1906.

Q. And it is used for the storage of gas oil?

A. It is.

Q. Pipes lead from that where?

A. From the dock to the tank, and from the tank 1519
across 21st street to the plant on block 979.

Q. How far away is it to the dock, a short distance, isn't it?

A. The marginal street is 250 feet wide by the city plan.

Q. Now, give me the other structures on that.

A. South of the oil tank just described is an underground tank for the storage of drip oil.

Q. Now, that drip oil is a by-product?

A. It is. Then on the north side of 20th street, near the marginal street is a one-story brick building, which was the company's veterinary hospital.

Q. Not now? 1520

A. Not now.

Q. What have you done with that; have you torn it down?

A. No.

Q. It still stands there?

A. It has been in use by the United States Government.

Q. For what purpose?

A. The production of toluol.

Q. Any other structures on that block?

A. Only the fences, as far as they belong to the Consolidated Gas Company. 1521

Q. Any other structures on the block?

A. Not belonging to the Consolidated Gas Company.

Q. What other structures are on there that belong to anybody else except the Government, which you have mentioned, and the Consolidated?

The Master: I do not understand that the

1522 structure used by the Government belongs to it.

Mr. Chambers: Well, only used.

The Master: It is being used by the Government.

Q. Is there any other company, or anybody else except the Consolidated Gas Company, that has any buildings or structures thereon?

A. There is the toluol plant of the United States Government which occupies a portion of the property.

By The Master:

1523 Q. In addition to that building which you mentioned a minute or two ago?

A. In addition to that building.

By Mr. Chambers:

Q. That toluol plant is owned by the Government, is it not?

A. It is.

Q. Built by the Government?

A. It was.

Q. Simply built upon the land of the Consolidated Gas Company?

A. It was.

Q. That still stands there?

1524 A. It does.

Q. And it is of considerable value, isn't it?

A. I don't know.

By the Master:

Q. Do I understand that this toluol plant of the Government is on block 987, lot 37?

A. It is.

Q. It occupies part of that lot?

A. It does.

Q. What percentage of it, roughly? 1525

A. About two-thirds.

Q. As I understand it, two-thirds of block 987, lot 37 was used by the United States Government for the manufacture of toluol?

A. Yes.

Q. It is not being used for that now?

A. No. The said two-thirds includes the veterinary hospital which is the property of the Consolidated Gas Company.

By Mr. Chambers:

Q. But that building, you testified, is used by the Government also?

A. It was, yes. 1526

The Master: I do not understand that any of it is being used by the Government now, Mr. Chambers.

Q. Well, it is just standing there under contract with the Government?

A. It is just standing there; as to the contract, I know nothing.

By the Master:

Q. When did the Government start to make toluol there?

A. I don't remember.

Q. Sometime in 1917 or 1918? 1527

A. I don't know. I judge it was around the early part of 1918.

By Mr. O'Brien:

Q. Does the Government control it yet?

A. I do not understand the question, Mr. O'Brien.

Q. Does the Government control it yet?

A. Have control of this plant? I assume they do.

1528 By Mr. Chambers:

Q. Under an arrangement they absolutely retain control?

The Master: That probably will come out more clearly.

Mr. Ransom: We shall offer the full facts in that respect.

Q. Returning once more to block 978, lot 6, is it not a fact that the National Coal & Coke Company occupy or have some portion of that block and lot?

A. I don't think so, Mr. Chambers. I have no knowledge of such occupancy, and it would be con-
1529 trary to my belief that they occupy it.

Q. How about the easterly portion? Haven't they something there, some structure, some shed, or don't they use it in some way?

A. I have no knowledge or recollection, as I have said before, of any occupancy——

Q. You would not say they don't, would you?

The Master: I will not allow that. The witness has testified to what he understands the facts to be here. Of course, he will not say there is not. Any witness who testifies that he does not know or does not think there is,
1530 would not testify——

Mr. O'Brien: But the witness uses peculiar terminology, indeed; this is not a matter of creed.

The Master: Let us get the facts.

By the Master:

Q. Mr. Alrich, is there any reservation in your mind as to your testimony that you do not believe that the National Coal & Coke Company occupy any part of this lot?

A. When I say I believe they do not, there is no reservation in my mind. 1531

Q. That is the best statement of your knowledge of the situation, that they do not occupy any part of it?

A. It is.

Q. You would not want to swear that your statement is absolutely accurate, and that any other condition might not exist?

A. It is my belief.

By Mr. Ransom:

Q. From what you have seen?

A. What I have seen. Any such occupancy would be so small that I missed it. 1532

By Mr. O'Brien:

Q. What is the difference in your mind between knowing and believing?

The Master: I think we have it perfectly clear, and that we all understand this witness' testimony. To the best of his knowledge and belief his recollection and observation is that they do not occupy it, but he will not say it is not possible that he overlooked something.

Mr. Chambers: I move to strike out the previous answer that the occupancy was so small that he missed it. 1533

The Master: I shall allow it to stand, because that is the witness' statement.

The Witness: Mr. O'Brien has asked a question.

The Master: But I will not permit Mr. O'Brien to ask questions.

The Witness: I want to answer.

Mr. O'Brien: It would save a lot of time as

1534 we go along, because I have a lot of it for this boy.

The Witness: I am waiting for you, John.

The Master: There may be a lot of it that I will not allow you to ask. I am not going to permit cross examination that is for the sake of baiting a witness.

Mr. O'Brien: He is an engineer, let us be precise. He uses the word "knowledge" and "belief", and "within the sphere of my knowledge", and other——

The Master: Cross examination, so far as I can control this case, is going to be confined to
1535 eliciting the truth and the facts. It is not going to be permitted for the purpose of baiting any witness. We might as well understand that now as at any other time. That applies to the witness as well as to the counsel. This witness has a great habit of looking at counsel and trying to start an argument. There is no necessity for it.

By Mr. Chambers:

Q. Now, Block 979, Lot 1—what is on that block?

The Master: Begin with the avenue, Mr. Alrich, so we can get it in order.

1536 Q. Generally, the main plant, the water gas plant is there on that block?

A. The generating apparatus of the water gas plant is on block 979.

Q. Now, begin, as Mr. Gilbert suggests, at Avenue A, and go eastwardly and tell us the structures that are on that block?

A. I stated on my direct testimony that part of Block 979 is covered by a group of buildings which

makes a separate description of them difficult. The 1537
northeast corner of 21st Street and Avenue A is a three-story office building and laboratory.

By the Master:

Q. Built of what?

A. Brick.

Q. How high?

A. Three stories high. I do not recall the height in feet.

Q. What are the dimensions on Avenue A and on 21st Street?

A. I do not recall the dimensions of the building. I should say it was doubtless about fifty by sixty-five feet, that just being an estimate. 1538

Q. How old is it?

A. A portion of the building was there when I entered the employ of the company. The third story has been added twice, that is, it was added after I entered the employ of the company and then was burned out.

By Mr. Chambers:

Q. What year?

A. That it was burned out?

Q. That is was added the second time?

A. I think 1903.

Q. When the first time? 1539

A. I think about 1901 or 1902. It was there only about a year. They had a fire at the laboratory there and damaged the building quite a lot and then it was reconstructed. There has been a further reconstruction of the interior of that building from time to time.

Q. When, about?

A. There is some going on now.

1540 Q. Consisting of what?

A. Rearranging the rooms in the interior.

Q. That is unimportant?

A. I should not describe it so.

Q. Well, what are they doing?

A. They are rearranging the rooms.

Q. Taking out the partitions?

A. And changing them, yes.

Q. Well, that has only to be done once, or do you do that every little while?

A. It has been done several times as conditions make it desirable.

1541 Q. What other building is on there besides the office building and laboratory? Go ahead and describe it?

A. On the north side of 21st Street east of the office just described is the exhauster room and some large pumps are in that room, some compound duplex pumps.

Q. How old a building is the exhauster room? Is that walled in, or is that a building or a room?

A. It is a brick building. The walls were there when I came with the company, but we have rebuilt it otherwise, the entire interior, the floors.

Q. When did you do that, what year?

1542 A. About 1911, as I remember it.

Q. Do you know what it cost to reconstruct the interior?

A. I did at the time; I do not carry all those things in my head.

Q. What kind of material is it made of, the exterior?

A. The walls are brick.

Q. And the roof?

A. The roof is slate, as I remember it. 1543

Q. What do you do there, what business does the company carry on in that building?

A. In there are these large pumps that I have described and the two works exhausters.

Q. Now, the next building going easterly.

A. Going easterly on 21st street, and actually another room of that same building, is the blower room, in which the three blowers are.

Q. Then that would be the same building as the exhaust room, but another room of the building?

A. Another room, there being a solid brick wall dividing it.

The Master: The witness testified, Mr. 1544 Chambers, that there was a group of buildings, and it was hard to differentiate between one and another.

Q. It is really one building, isn't it?

The Master: One building with a number of sub-divisions.

The Witness: Generally, but the roofs are separate. Here there are valleys that plainly show different buildings.

The Master: Apparently different buildings, but so connected up that it is just one group used together.

1545

Q. How old is the blower room?

A. The same as I have stated in connection with the exhauster room.

Q. What is in the blower room?

A. Three Sturtevant blowers.

Q. How old are they?

A. They were put in there in my time.

Q. What year?

1546 A. About 1905, I should say.

Q. Any other rooms there?

A. East of the blower room is a building which is not merely a sub-division of the other; it is a separate structure, but contiguous to the blower room. That is a machine shop, carpenter shop and blacksmith shop.

Q. How large a building is that?

A. I don't recall the dimensions of it.

Q. How high; one story?

A. It is two stories.

Q. How old is that building?

A. It was there when I came with the company.

1547 Q. Now the buildings east on 21st street.

A. East of that the structure changes. There is a pipe and machine shop.

Q. What kind of a building is that? Is that a room or a building?

A. It is a room in a large building which extends up toward the middle of the block.

Q. Describe the rest of that building of which this is a room.

A. Under that same roof, and east of the shop I have described, is a pump room enclosed by solid brick walls, under that same roof.

1548 Q. How old?

A. It was there when I came with the company; that is, the building was; the pumps were not.

Q. What kind of pumps are in it?

A. Oh, there is a miscellaneous lot of pumps in there of various makes that I do not recall in detail.

Q. Are any of them in use?

A. All of them are in use.

Q. You don't know of what make they are, nor 1549
how old they are?

A. Except that all these pumps have been put there in my time. I have been connected with that work from time to time.

Q. Next?

A. East of the pump room——

Q. Now, just a minute. Are those pumps as old, as far back as 1902, when they were put there?

A. No, I imagine that all of the pumps are of a much later date than that, and that none of them are older than 1904, and some of them a very much later date than that.

Q. When you say "imagine", you mean that is 1550
your best recollection?

By Mr. Chambers:

Q. Now, the next room?

A. That is an entirely separate building, distinctively different from the other buildings. That is the coal shed.

Q. What is the size of that?

A. I do not recall its length. It is somewhat higher than the other buildings that I have described.

Q. What is it made of?

A. Brick.

1551

Q. How long has that been there?

A. The building itself was there when I entered the employ of the Company, but the coal-handling machinery inside has all been put there in my time.

Q. Is that without a roof, or has it a roof?

A. It has a roof, a slate roof.

Q. That is used for the storage of coal?

1552 A. It is.

Q. Coal to run the pumps, I suppose?

A. No.

Q. What for?

A. Generator fuel.

Q. Now, the next building or room?

A. I would now start on the south side of 22nd street.

Q. All right.

The Master: Begin at Avenue A, east side of Avenue A.

A. The generator house extends from the south side of 22nd street down to the office building first
1553 described and running down the block severa hundred feet.

Q. What kind of a building is that generator house?

A. It is a building with brick walls, steel roof and floor columns and slate covering on the roof.

Q. Is that a room or a building?

A. It is a building.

Q. How old is it?

A. The walls were there when I entered the employ of the company, but the interior part has been reconstructed since.

1554 Q. Was the roof there to?

A. I think the roof had been rebuilt just before I came to the employ of the company.

Q. You would not know that it was there then?

A. It was, it is my impression that it had just been reconstructed.

Q. All you know is that it was there or it was not there when you came with the company?

A. It was. We reconstructed the inside of the 1555
building.

Q. The entire building was there except that the interior has been changed?

A. The interior has been changed, materially changed.

Q. When was that work performed on the interior?

A. In 1904 or 1905, and again in 1907 we did work there, and in 1918 we made some further changes.

By the Master:

Q. What is that building used for?

A. That is where the water gas machines are. 1556

By Mr. Chambers:

Q. How many water gas machines have you in there?

A. There are thirteen machines, and an oil gas machine.

Q. What make are those gas machines?

A. The United Gas Improvement Company.

Q. All of them?

A. All the thirteen water gas machines.

Q. And the other one?

A. It was built by ourselves.

Q. What is that for? 1557

A. Making oil gas.

Q. One of your own invention, the company's invention?

A. No, it resembles the U. G. I. machines very closely.

Q. How old are these thirteen gas machines, generators?

A. Five of them were entirely rebuilt——

1558 Q. No, I am asking you how old they are. Were they there when you went there?

A. Five of the machines—there were five machines there when I came with the company, but those five machines that were there have been entirely reconstructed about 1907 or 1908.

Q. How about the others?

A. The other eight were built in 1904 or 1905.

Q. And the one that the company built?

A. 1906.

Q. Now, the next structure to the east of the generator house?

A. In this generator house, of course there is a
1559 labyrinth of accessory machinery, piping and elevators and oil heaters.

Q. Do you want to give us a list of them?

A. I could not possibly do it.

Q. All right, we will go to the next.

A. I am just calling attention to the fact that there is——

Q. That won't do us any good unless we have it itemized. Now, the next building?

A. East of the generator house and still on the south side of 22nd Street is a building which contains six Hazleton boilers and four multitubular
1560 condensers.

Q. How old are those six Hazleton boilers?

A. I don't know.

Q. Were they there when you went into the service of the company?

A. They were.

Q. Go ahead?

A. The toilet apparatus for the workmen, the there are eight boilers of the Babcock & Wilco

type having a total horsepower of about 4,600. I 1561
erroneously stated 2,300 on my direct-examination. I neglected to multiply by 2. I took one boiler in each pair and added up the horsepower. I should have multiplied by 2. It is 4,600. There is a portion of the tar separating apparatus in that building.

Q. How large a building is that which houses these boilers?

A. It is a very difficult building to describe, being of irregular form, notching down into the center of the block and tying up to the other adjacent buildings I have described.

Q. How old a building is it, was it there when 1562
you went into the service of the company?

A. It was.

Q. What material is it made of?

A. Brick walls and slate and iron roof.

Q. Were these eight Babcock & Wilcox boilers there when you went into the service of the company?

A. No one of them.

Q. When were those purchased?

A. At four different dates.

Q. Give the dates?

A. The last in 1918. 1563

Q. Two on each of these occasions?

A. Two on each occasion.

Q. When were the first two purchased?

A. Well, just after I entered the employ of the company.

Q. Were they new, those two?

A. They were.

1564 Q. Those first two have been in there since about 1901?

A. Later than that.

Q. 1902?

A. 1902 or 1903.

Q. Then the next two, speaking of the Babcock & Wilcox boilers?

A. 1904 or 1905.

Q. Were they new?

A. They were.

Q. Then the next two?

A. The next two fall in somewheres between that and 1918, and I don't remember just which
1565 year.

Q. The next two?

A. 1918 is the last.

Q. You did not give me eight in all, did you? Haven't you given me only six?

The Master: No, he has given you eight. 1902 or 1903, 1904 or 1905, and between that time and 1918, two more, and then in 1918 two more.

Q. Were all of those last four you mentioned new?

A. They were. The whole eight were new.

1566 Q. The toilet, how long has that been there?

A. I don't remember what year that work was done. I remember its being done. Probably ten years ago.

Q. Didn't they have any toilet in there before that?

A. They did, but they reconstructed those facilities for the plant.

Q. The building to the east of this last building

you have described; are there any other build- 1567
ings?

A. Yes, sir, extending down to the small yard space that I described on my direct testimony, on the south side of 21st Street, east of where the multitubular condensers are, there is a building containing some oil storage tanks for the storage of gas oil, and then south of that building, taking the building right in the middle of the block, under the roof there is the remainder of the tar separating apparatus.

Q. How old is the oil storage building that you have just mentioned?

A. I don't know. 1568

Q. Was it there when you came to the company?

A. It was.

Q. How large a structure is it?

A. About ninety feet wide north and south, and about fifty feet long.

Q. What kind of a building is it?

A. Brick walls.

Q. Has it a roof on it?

A. It has.

Q. And that is used to store water gas oil?

A. Gas oil.

Q. Gas oil?

A. Yes. 1569

Q. What is the size of the tanks?

A. Eleven feet in diameter and forty feet long.

Q. More than one?

A. Eight.

Q. And how long have they been there?

A. I don't know.

Q. Before your time?

1570 A. They were.

Q. Any other structures on that block?

A. North of the coal shed there are two brick pump houses.

Q. Small buildings?

A. Relatively small buildings.

Q. About how large?

A. One of them is circular and about sixteen feet in diameter; the other I should say was probably thirty feet long and twelve or fifteen feet wide.

Q. How long were those houses there, or have they been there before your time?

1571 A. I don't remember.

Q. You mean you do not know whether they were there when you went into the service of the company or not?

A. Yes, I don't remember whether they were there or not. I remember putting in the pumps and work of that kind.

Q. When were the pumps installed?

A. The pumps in the rectangular building were put in in 1904 and 1905.

Q. And in the other?

A. They have been changed, as I recall. The first

1572 pumps I knew of about 1904 or 1905.

Q. How many pumps are there in these houses?

A. Oh, there are a number of them. I do not remember the detail.

Q. Any other building or any other structures on that block?

A. In the unroofed portion of this small yard there are numerous oil tanks.

Q. What are they used for?

A. The storage of gas oil and drip oil and tar. 1573

Q. By-products?

A. Not the gas oil.

Q. No, the other tar?

A. Yes.

Q. And the drip oil—those are by-products?

A. Yes.

Q. Is that a building, or is that just a yard?

A. Those are tanks in the open.

Q. How long have they been there?

A. Some of them were there when I entered the employ of the company and others have been built since.

Q. Which ones were there when you entered the 1574 employ of the company?

A. There were twelve tanks for the storage of gas oil that were there when I entered the employ of the company, and I think two others. The remaining tanks, as near as I remember have been built since I entered the employ of the company. We put two tanks there in 1916, two tanks 21 feet in diameter.

Q. Have you covered all the buildings and structures and rooms on this block now?

A. As near as I can remember. Of course this is a big matter for my memory. There is a tremendous labyrinth of machinery and equipment there. 1575

The Master: The entire block seems to be occupied by buildings of one kind or another pretty solidly.

The Witness: It is.

Q. Aren't there some coal benches there that are not in use?

A. There are now.

Q. When did you last visit this block?

1576 A. Several weeks ago I was there.

Q. You did not notice any benches, coal benches not in use?

A. I did not notice any coal benches not in use. There is a coal conveyor that extends from the coal shed across the Marginal Street to the bulk head that I described on my direct testimony.

Q. The gas that is made on this block, this plant, goes into these six holders across the street?

A. It does.

Q. Do you know, or it is not a fact that this gas supplies the consumers of these other companies as well as the Consolidated?

1577 A. I have no knowledge of that matter at all.

Q. Let us now take Sheet 6 of Exhibit 178. That is what you call the 42nd Street and Eleventh Avenue Works. This is the other coal gas plant in the Borough of Manhattan?

A. It is.

Q. The other very large coal gas plant is over at Astoria, isn't it?

A. There is a very large coal gas plant in Astoria

Q. Of this company?

A. Owned by the Astoria Light, Heat & Power Company.

1578 Q. That is this company?

A. Are you testifying or asking me a question now? I want to get it straight. Did you ask me a question?

Q. Well, we will let it stand just as it is. No, I did not ask you a question.

The Master: No, I think we will strike out the statement, Mr. Chambers.

Mr. O'Brien: Why not have it clearly under- 1579
stood that the complainant company owns the entire stock of the Astoria?

The Master: We will not have anything understood except the sworn proof.

Mr. O'Brien: We will then not have a discussion about it.

The Master: We will not. I will strike out the statement of Mr. Chambers just because it had no business to be made.

Mr. Chambers: I will consent that it be stricken out.

Mr. O'Brien: Isn't that a fact, Counselor?

The Master: Why ask questions? 1580

Mr. O'Brien: That is controverting something that everybody knows. Why not have it in here?

The Master: Well, everybody does not know it, because I don't know it.

Mr. O'Brien: Well, it is going to come out.

The Master: We do not know it until we have some sworn proof on it.

Mr. O'Brien: It is going to come out not only *de novo* but by the roots.

Mr. Chambers: Perhaps I should not have said it. It is the fact. I acknowledge my error. 1581

Q. Have you before you Sheet 6?

A. I have.

Q. This is a coal gas plant—or was erected for that purpose?

A. It is a coal gas plant.

Q. We will take this little lot up here, Lot 23.

The Master: Block 1090.

1582 Q. Block 1090, Lot 23. What structures are on that lot?

A. On the southeast corner of it is a one-story brick office.

Q. And was that there when you went into the service of the company?

A. I don't think so. I think it was built shortly afterwards, or a few years afterwards.

Q. Well, about 1902?

A. Yes, about that.

Q. And how large a building is it?

A. Oh, about ten feet wide and twelve feet long.

Q. And what is it used for?

1583 A. Used in connection with that yard when the coke is being stored there from the works.

Q. Who uses it in regard to coke?

A. Some of the works' clerks use it.

Q. What else is there?

A. A fence that encloses the property.

Q. What?

A. A fence that encloses the property along the north side of 42nd street.

Q. What use is made of the office building?

A. This small office building?

Q. Yes.

1584 A. Why, the clerks that are tallying the carts, I suppose, and looking after the coke that is there in the yard.

Q. Isn't it a fact that this whole office building and whatever is on there, on the north side of 42nd street, on Lot 23, is leased to some outsiders whose name is John Wahle & Co., or some such name?

A. The office and the whole property, was the question?

Q. Yes.

A. No. 1585

Q. The office, then?

A. I don't know whether he is now using the office or not.

Q. It is not being used by the gas company?

A. At the present time, no.

Q. How long since it ceased to be used by the gas company—by complainant?

A. You mean how long has this tenant had any——

Q. No, I mean just what I say: When did the Consolidated Gas Company stop using this?

A. They were using it the last time there was 1586
coke taken from the plant on Block 1089 and put over on Lot 23.

Q. When was that, in 1901?

A. No, as near as I recall in 1917 was when we last had that plant running, is my recollection.

Q. Then you leased it to this other concern?

A. It is not a term lease. He just has a temporary occupancy, so that he could be gotten out any time.

Q. Did you make up this Schedule B here which I show you (indicating to witness). I just asked you if you made it up?

1587

A. Why, that appears to have been prepared by counsel.

The Master: No; the question is, did you make it up?

The Witness: I furnished some of the information for it.

Q. Did you furnish the last line on the bottom

1588 which says "lease for this property"? Did you give him that information?

A. I did not.

Q. The Company calls it leased then?

A. Yes.

Q. If it is there it calls it leased?

A. Yes, but I know he only has a temporary occupancy.

Mr. O'Brien: Everything in life is temporary, isn't it?

The Master: Do not answer that.

Mr. Ransom: Do you want to mark it for identification?

1589 Mr. O'Brien: It has not been used by the defendants since 1917, and he says it is only temporary.

The Master: I think the answer to it is, Mr. O'Brien, that this witness does not know anything about it.

Mr. O'Brien: Well, he has a convenient forgetter, you know. He knows all about some things.

The Master: I am satisfied that he does not know what the terms of that lease are.

Mr. Chambers: He set it out as being gas

1590 property, in pink.

Mr. Ransom: I have permitted him to be loosely might be called cross-examination, but which really is cross-examination in chief, by the defendants on a number of things which are not cross-examination, but direct.

The Master: No, I think Mr. Chambers has kept well within the line of cross-examination.

Mr. Chambers: I tried to.

The Master: There were one or two points 1591
that I thought he was going beyond, and he stopped. At any time I think he is getting beyond his examination I will stop him. But there is not much sense in asking the witness about the terms of a letting to these people on lot 23 when it is not within this witness' jurisdiction. He is just giving us a layman's idea of temporary occupancy.

Q. It is a fact, is it not, that that property we have just been talking about, is not used by the complainant in the gas business?

A. Referring to lot 23, there is no coke in lot 23 1592
at the present time.

Q. Can you give me an answer to a direct question, which seems to be a fair one?

Mr. Ransom: There may be a question as to what constitutes use. A reserve use may be a use. The question whether there is anything physically going on there is one question.

The Master: That is the question we want to get at: is there anything going on there?

Mr. Chambers: He asked the witness what uses this piece of property——

The Master: You need not argue it. I am going to let you get through your statement, 1593
whether there is any occupancy or use at the present time in relation to the manufacture of gas.

Mr. Ransom: If it is going to be very helpful, we want it and want him to bring it out.

Mr. O'Brien: That is a good reason why we have an examination of the plant in the summertime. They say, "Well, we use it in the

1594 winter, or we use it next year", or something like that. We want the truth here—just the facts.

The Master We will find out by the time it is finished what is the fact.

By the Master:

Q. What is the fact as to the actual user or occupancy of lot 23, with reference to the actual manufacture of gas at this time?

A. There being no gas manufactured on block 1089 at the present time, there is no coke on lot 23.

Q. I do not care anything about coke. The plant on block 1089 is not in operation?

1595 A. That is correct.

Q. Any connection that there might be between lot 23 or block 1090, must be taken with the operation on block 1089 or the lack of operation?

A. That is correct.

Q. So that there is not any work now being done at that plant which includes block 1089 or block 1090?

A. That is correct.

The Master: Let us have the next question, Mr. Chambers. I think we have it perfectly clear that that plant is not in actual operation, or any part of it. How long since it has not been in actual operation?

1596

By Mr. Chambers:

Q. How long since?

A. My recollection is that same winter of 1917-1918.

By the Master:

Q. The same time that the other coal gas plant was——

A. In operation?

1597

Q. Suspended operation?

A. Yes.

By Mr. Chambers:

Q. Closed down, wasn't it?

The Master: We will say suspended operations. They say it is closed down, and I will say suspended anyway.

Mr. Ransom: That may not be the proper term or the accurate term for its use, however.

Mr. Chambers: I claim it is abandoned forever.

The Master: It is appareatly perfectly clear 1598
that since the early part of 1918 no coal gas has been manufactured, therefore, the two coal gas plants have not been actually used for the making of gas.

Q. Across the street on block 1089, lot 1, on the easterly end of the block, on 11th avenue, there are four holders?

A. There are.

Q. Those are not in use at the present time?

A. I believe there is gas in one of them.

Q. Well, which one?

A. The southwesterly of the four. 1599

Q. You mean gas that is being used now by consumers?

A. I don't know. I saw or have observed it as inflated here recently.

Q. What is the capacity of those four holders?

A. My best recollection is there are 250,000 cubic feet in each.

1600 Q. Were they there when you went into the service of the Company?

A. No.

Q. And I suppose they have the usual valve connections?

A. They have.

Q. Are they related in any way to the holder on 11th street and 12th avenue? There is a holder, on 11th street and 12th avenue, isn't there?

A. At the 11th street station of the company.

Q. Yes.

A. There are five holders there.

Q. Very large holders, aren't they?

1601 A. Well, I would not describe them as very large. There is one of 2,000,000 feet capacity and four others of another size.

Q. According to Exhibit 180, those five holders are two blocks away, right in the same locality.

A. They are, right close together.

Q. What other structures are on this block going westerly from these holders?

A. The office and meter house, the purifier house——

Q. Take the office and meter house, was that there when you started out with the company?

1602 A. It was.

Q. And that shuts down too; that is not being used, is it?

A. It is.

Q. What is that being used for?

A. The superintendent of the plant and his clerical staff are there.

The Master: The superintendent of this plant that is working.

Q. How long has it been operating? 1603

A. There is the handling of gas that goes on there at that point.

Q. Gas from where?

A. It comes from other stations.

Q. Isn't that all handled over at the 44th Street station?

A. The superintendent of the 44th street station has his office at this point. He looks after both.

Q. What else besides the office building is on this block?

A. The purifier house, the retort houses.

Q. The purifier house, was that there when you went into the service of the company? 1604

A. It was.

Q. How large a structure is that?

A. It is about 150 feet long and about 65 or 70 feet wide. I don't remember exactly.

Q. Of what material?

A. It is part brick and part frame.

Q. That is not being used now?

A. It stands the same as the rest of the plant.

Q. Well, can't you answer that it is not being used?

A. There is no gas going through the boxes.

Q. It is closed?

A. It is closed, yes. 1605

Q. And has been since 1917 at least?

A. Correct.

The Master: I thought you said you made gas there during the winter of 1917-1918?

The Witness: Well, that is what he asked me.

The Master: He said has it been discontinued since 1917.

1606 The Witness: Well, wait a minute. 1917-1918. That is the period you are referring to, isn't it?

Q. I don't know. What is the fact? You closed it down in the spring of 1918?

A. We suspended operations in the early part of 1918, as I remember.

Q. Did you make any gas that amounted to anything in the last several years?

A. I am not familiar with the gas production.

Q. Is it not a fact that you only made three or four days run there in the last several years?

1607 A. I have no knowledge of how many days they operated or what they produced.

Q. Is it not a fact that you only made just enough gas there in the last several years so you could say you made some gas there?

A. I have no such knowledge.

Q. Now the next structure?

A. On the south side of 42nd Street is one of the retort houses, known as retort house No. 1.

Q. And was that there when you went into the service of the company?

A. It was.

Q. What size building is that?

1608 A. It is some 200 feet long. I don't recall the dimensions.

Q. What is the material?

A. It has brick walls, slate roof on steel trusses and iron floor.

Q. And that is not being used; that is in the same situation as the purifier house, isn't it?

A. It is.

Q. The next building.

A. South of the No. 1 retort house and on the 1609
north side of 41st Street is another retort house dividing the two parts containing also retort benches. To the east of that building and adjacent to it is a condenser, scrubber and exhauster house.

Q. Just return to the building of the benches. With the benches? How did you describe that? You said a building.

A. A building subdivided into two parts, both containing benches.

Q. And how old a building is that?

A. It was there when I entered the employ of the company.

Q. Of what material is it made? 1610

A. Brick with slate roof on steel frame.

Q. And that is, so far as use is concerned like the retort house and the purifier house?

A. It is.

Q. Now the next structure.

A. Is the coal shed on the south side of 42nd Street, west of the No. 1 retort house.

Q. Is that a building or just a shed?

A. It is a brick building with a roof.

Q. Enclosed on all sides?

A. Enclosed on all sides.

Q. So far as its use is concerned, that is like the 1611
retort house and purifier house?

A. Pardon me, that is partially open on the west end, that coal shed.

Q. And was that there when you went into the service of the company?

A. It was.

Q. Is that in the same situation so far as the

1612 use is concerned as the retort house and purifier house?

A. No, it contains some gas coal, some thousands of tons of gas coal.

Q. For which plant?

A. For this plant.

Q. The coal, you mean, is lying there?

A. The coal is there in storage in this building, for this plant.

Q. And not being used because the plant is idle?

A. Yes.

Q. How many tons of coal have you stored there?

A. I don't really remember, Mr. Chambers. I
1613 did know recently just how many thousands of tons they had there.

Q. And how long have you had it there? I mean when did you put it there?

A. My best recollection is we have had coal there continuously.

Q. How long ago; how long has this remained on storage?

A. Since the plant was last in operation.

Q. Then you purchased that coal in 1916 or 1917, about?

A. As far as purchases are concerned, it might be
1614 composite, its date.

The Master: Well, delivery then.

Q. It is as long ago as 1917, isn't it, when it was put there?

A. I should imagine so.

Q. Any other structures?

A. West of the second retort house I described there is a building which is the wash room and toilet room for the men on the plant, and then under-

ground between the two retort houses is what might be described as a large vault or underground building several hundred feet long, in which are the workshop and the boilers. 1615

Q. The wash room, of course, that is not being used now?

A. No.

Q. Is that a building by itself?

A. It is a building by itself.

Q. How large a building is that?

A. I imagine about 40 feet square.

Q. And was that there when you entered the service of the company?

A. It was. 1616

Q. And what material is it made of?

A. Frame building.

Q. The underground building, is that being used now?

A. They are using the blacksmith shop there.

Q. In connection with what other plant?

A. I don't know what work they are doing. I see the blacksmith shop is in use.

Q. How long ago did you notice that?

A. Within a few weeks.

Q. Two or three men working there, you mean?

A. Yes. 1617

Q. Any other structures?

A. West of the coal shed is the dock structure, the dock projecting out into the river beyond the bulkhead.

Q. Is that a part of the property which is marked not in solid pink but with diagonal red lines?

A. It is the rectangular area branching out from the bulkhead, lying within that thatched area.

1618 Q. That is a dock where you receive or unload coal?

A. That is correct.

Q. When this plant is in operation?

A. That is correct.

Q. If this plant is not in operation then you do not need that dock?

A. We do not use the dock to unload coal when we are not taking coal in, no.

Q. I mean you do not use that dock for any other purpose except in connection with this plant, do you?

A. No.

1619 Q. What kind of a dock is it?

A. It is the usual type of dock construction, of piles and timber, but it has an upper deck on which narrow gauge cars can be loaded into directly from the coal barges and then those cars run back and the coal dumped into the open yard or into the coal shed.

Q. And how long has that dock been there in that condition, before you went into the service of the company?

A. There was a dock there, but we rebuilt it since.

Q. Is it used now by anybody else?

1620 A. No.

Q. No other company unloads on that dock?

A. I have no knowledge of any other company unloading. I believe that such is not the case.

Mr. Chambers: I move to strike out the last statement.

The Master: No, I will let it stand.

Mr. Chambers: I did not ask him that. I asked if anybody is using that. That question

calls for his knowledge. Then he adds he be- 1621
lieves such is not the case, which is not proper in my judgment.

The Master: I will let it stand.

Mr. Chambers: Exception.

Q. Across this upland and on the westerly end of the block, here where it says, "Marked 7", is a right-of-way, across there, isn't there, which you have not noted on here?

A. That right-of-way is not located where sketched on your map.

Q. Well, I did not ask you that. I did not ask you anything about my copy.

A. Well, all right; let me get the question. 1622

Q. I asked you if there was not a right-of-way there somewhere?

A. The City of New York has a right-of-way across block 1007, lot 7.

Q. Could you mark it on my exhibit, about where it is, if that is correct?

A. I can approximate it.

Q. All right, sir.

A. It cuts across the bulkhead on an angle (indicating).

Q. Will you just put your initials right there?

A. (Witness complies.) 1623

Q. You have now made a rough pencil sketch of the right-of-way across that block?

A. I did.

Q. From memory?

A. From memory.

Q. But there is a right-of-way across there?

A. There is.

Q. About where you put it?

1624 A. About where I put it, yes.

Mr. Chambers: I will mark it for identification.

The Master: Mark the sheet.

Marked Defendant's Exhibit "B" for identification.

Q. Why didn't you put that right of way on there so we would be able to know about it?

A. Because the right of way would be outlined by structures. I am not showing structures.

Q. How wide is it?

A. I judge it is 20 feet wide, Mr. Chambers. That is a guess.

1625 Q. Clear through the block?

A. Clear through, yes.

Q. According to these deeds, who owns the fee underlying the right-of-way?

Mr. Ransom: I object to the question. It is a legal question.

The Master: I will let him answer that. He has said he sketched out property disclosed by these deeds, or described by these deeds. I will let him answer that question.

Mr. Ransom: The property might still be described in the deed, and nevertheless, there

1626 might be a right-of-way claimed or exercised.

The Master: Surely, but the deed would show the fee to be in somebody, subject to the right-of-way.

Mr. Ransom: Perhaps the right-of-way is not claimed there. I do not know what the situation is.

A. The Consolidated Gas Company of New York.

Q. That land underlying the right-of-way is in- 1627
cluded in those deeds that you have checked up?

A. It is.

Q. Who has the right-of-way, the city of New York?

A. The city of New York, yes.

Q. Is it mentioned in the deed?

A. It is not. It is a recent thing.

Q. Where is the record of that right of way?

A. As to the arrangements between the Dock Department and the Gas Company, I presume the Dock Department has it.

Q. Did you participate in it?

A. I did not. 1628

Q. Was it by condemnation or what?

A. No, it is an agreement. There was no condemnation.

Q. An agreement between the Consolidated, the city and the Dock Department of the City of New York?

A. Correct.

Q. Nothing compulsory about that, was there?

A. I don't know how badly scared the company may have been.

Q. You have now already stated that these two 1629
coal gas plants, the one I have just been interrogating you about at 42nd Street and Eleventh Avenue, and the other at 21st Street and Avenue A I think it was——

A. That is not correct.

Q. No, you are right.

A. You are referring to another coal gas plant.

Q. No, it was 14th Street and Avenue C.

A. Correct.

1630 Q. These are the two coal gas plants in the city that have been shut down?

The Master: On Manhattan Island, you mean.

Mr. Chambers: On Manhattan Island—that have been shut down as you have indicated?

A. That is correct.

Q. During the time these have been shut down the Consolidated Gas Company have been able to make sufficient gas, have they, to supply the consumers?

A. They have been able to get sufficient gas. As to the production of it, that is a thing lays beyond
1631 my sphere of activity and knowledge.

Mr. Ransom: I think I will make an objection, your Honor, as to the cross examination of this witness on matters entirely out of his sphere and as to which he probably has no knowledge.

The Master: I will not let Mr. Chambers go very far into that matter.

Mr. Ransom: Any fact upon which this witness' testimony would be in your Honor's opinion helpful I want brought out, whether by direct examination or not; but I am afraid on
1632 some of these things the witness' knowledge is not enough to make it worth taking up the time upon.

The Master: You may be right upon that; we will see.

Q. On page 7 of this Exhibit 178 you have shown what you call the 44th Street-12th Avenue property?

A. I did not call it that. That is your description.

The Master: No, that is the description on Exhibit 180. 1633

Q. Did you make up Exhibit 180?

A. Yes. Is it so described there? 44th Street and Twelfth Avenue. 44th Street holder station is what I would describe as the station. The other is the location of the property.

Q. There is nothing here but holders; is that it?

A. A holder station together with the buildings that compose it.

Q. Take up this one piece of property, Block 1092, that has four gas storage holders?

A. It has.

Q. Did you state the capacity of those holders? 1634

A. I did.

Q. What is their capacity?

A. 375,000 cubic feet each.

Q. How long have those holders been there?

A. I don't know.

Q. Were they there when you went into the service of the company?

A. They were.

Q. Where do those holders get their gas from?

A. I don't know.

Q. What plant you do not know?

A. I do not know. 1635

Q. Are they being used now?

A. They are.

Q. You have no idea where the gas is made that supplies those four holders?

A. I have not.

Q. Does it come from the plant of some other company?

Mr. Ransom: I object to the question. It is quite obvious he has no knowledge.

1636 The Master: Objection sustained. The witness says he does not know.

Q. Is there anything else on Block 1092 except those holders?

A. There are also two brick buildings. The valve house in the——

Q. The valve house is one of the brick buildings?

A. Is one of the brick buildings.

Q. How large a building is that?

A. I should judge—it is an octagonal building, and I should judge it was about 20 feet in diameter.

Q. And was that there when you went into the
1637 service of the company?

A. It was.

Q. The other building you spoke of?

A. That lies just west of the holders.

Q. What is that for?

A. We use it for the storage of tools.

Q. In connection with these four holders?

A. Correct.

Q. And how large a building is that?

A. That is smaller, and I should imagine it was probably about 12 by 12 feet.

Q. And was that there when you went into the
1638 service of the company?

A. It was.

Q. Of what material is it made?

A. Brick building with slate roof.

Q. Any other structures on Block 1092?

A. The brick fence enclosure.

Q. Around the entire block or around the entire property in pink outlined on Sheet 7?

A. That is correct, except that the gates of 1639
course are timber.

Q. What kind of a fence is this?

A. It is about 14 feet high on the 44th Street side, as I remember it, and about 12 feet on the 45th Street side. It is quite a high brick fence.

Q. How wide?

A. 12 inches thick with four inch pilasters.

Q. Where do the mains come in that supply these holders; what street do they enter from, do you know?

A. From 45th Street. Also there is one main, as I recall now, that turns in from 44th Street, 1640
turns in about the middle of the shaded area.

Q. You have given me, have you, all of the structures that are on Block 1092, Lot 7?

A. As far as I recall. Of course I am testifying without any memorandum. I am testifying from memory.

Q. The company did own that portion of block 1093 which is now shaded?

A. You are asking me about block 1093. Have you changed to the upper block?

Q. Yes, I have moved to 1093, across the street. The company owned the west portion of that?

A. Lying east of the pink, only three lots ever 1641
belonged to the Consolidated Gas Company.

Q. You sold those on June 4, 1914, didn't you?

A. Correct.

Q. What is on lot 9, block 1093?

A. On the part shown shaded, there is a 2,000,000 cubic feet gas holder and a brick engine exhauster house, and a brick boiler house, and brick fences

enclosing the property, with a wooden fence along the westerly side.

Q. How long has that holder been there?

A. I don't know.

Q. Was it there when you went into the service of the company?

A. It was.

Q. What is its capacity?

A. I have just stated it.

The Master: He has answered that.

The Witness: I have answered it twice; 2,000,000 cubic feet.

Q. Where does the gas come from that goes into that holder? Where it is manufactured?

A. The same place that the gas is manufactured that goes into the other holders.

Q. Where is that place?

A. I have already said I don't know.

Q. How do you know it is the same place?

A. I know the way the pipes connect.

Q. How do you know they get their gas from the same manufacturing plant?

A. From the way the pipe connection is laid.

Q. Then these four holders are piped over to this 2,000,000 cubic foot holder?

A. They are connected together.

Q. Is there room on block 1092 there for this 2,000,000 foot holder? There is room, isn't there?

A. You mean on land belonging to the Consolidated Gas Company?

Q. Yes.

A. I am not prepared to answer that. I am inclined to doubt it, but I would have to lay it out.

Q. How old is this exhauster house?

A. I don't know.

1645

Q. Was it there when you went into the service of the company?

A. It was.

Q. How large a building is that?

A. I judge 25 feet wide and 25 feet deep.

By the Master:

Q. And now high?

A. It is two stories high.

Q. Do you mean by that about 25 or 30 feet?

A. About 25 or 30 feet. Not over 25 feet.

By Mr. Chambers:

Q. Of what material is the exhauster house made?

A. Brick.

1646

Q. With what kind of roof?

A. I don't recall the roof construction. I think it is a tin roof.

Q. And the boiler house, was that there when you went into the service of the company?

A. It was.

Q. How large is that?

A. It is a building, I judge, about 15 by 20 feet. Of course, again I am testifying without a memorandum.

Q. What material is it made of?

A. Brick building.

1647

Q. The roof?

A. The roof is tin, as I recall.

Q. And in it are how many boilers?

A. Two vertical boilers.

Q. Were those boilers there when you went into the service of the company?

A. One was and one was not.

Q. Which one was not? Are they both the same

1648 make; how are we to tell which one was and which one was not?

A. The northerly boiler, as I remember, is the newer boiler.

Q. Are they both the same make?

A. I don't think so. They are not any patent type of boiler.

Q. The other was there when you went into the service of the company?

A. So far as I remember.

Q. What are those boilers used for?

A. In connection with the operation of the holders.

1649 Q. The four holders or the one holder, or all?

A. The holder 5.

Q. When was the second boiler of the two installed?

A. In 1914.

Q. Was it new at the time?

A. It was.

Q. What is in the exhauster house?

A. An engine and exhauster.

Q. Was the engine there when you went into the service of the company?

A. It was.

1650 Q. Was the exhauster?

A. It was.

Q. Any other buildings on that lot 9?

A. That is all.

Q. Was that fenced in too?

A. It is. I have already stated so a few minutes ago.

The Master: Brick on three sides and timber on the other side.

Q. When was the fence built? 1651

A. The wooden fence was built in 1914. The brick fence I don't know.

Q. Was it there when you went into the service of the Company?

A. It was.

Q. The complainant owned some dock property there on 44th and 46th streets, to the west of this lot 9, did it not?

A. Did you use the past tense? Owned?

Q. I did.

A. Yes, they did.

Q. When was that condemned by the city?

A. The title vested August 1, 1913. 1652

Q. Are there any rights-of-way over these two pieces of property you have just been talking about?

A. There are not.

Q. Isn't the gas which is contained in these holders, sent out for distribution to other companies, other than the complainant, being some of these companies we mentioned, to your knowledge?

Mr. Ransom: I object to the question.

The Master: I will allow him to answer.

A. I don't know.

Q. Turn to sheet 8 of this exhibit 178. You have lot 38 shaded in pink, block 1028, on 57th street; is 1653 that right?

A. That is correct.

Q. That is a branch office building you call it?

A. It is branch 4.

Q. Branch 4?

A. Yes.

Q. How tall a building is that?

A. Three stories high.

1654 Q. Three stories?

A. Yes.

Q. And does it occupy the entire lot?

A. Every inch of it.

Q. When did the company acquire that, do you recall?

A. My best recollection is in the early part of 1916.

Q. 1916 as to the land or the building?

A. The land.

Q. And was the building erected by the company?

A. It was.

Q. What was on the land before this building?

1655 A. The Central Presbyterian Church.

Q. And you demolished that?

A. We did.

Q. And erected the building? Who designed this building, this office building?

A. Warren & Wetmore.

Q. And who were the contractors?

A. The George A. Fuller Company.

Q. When was it completed—the building?

A. My best recollection is in 1917.

Q. Who occupies the basement?

A. The Consolidated Gas Company.

1656 Q. Any other companies?

A. No other companies.

Q. What is the basement used for?

A. There is a heating plant down there and toilet rooms and storage room.

Q. The second floor, who occupies that?

A. You mean the street floor?

The Master: The ground floor?

Q. The ground floor?

A. The Consolidated Gas Company.

Q. What is that used for? 1657

A. It is the show room and branch office.

Q. You mean show room for appliances?

A. For fixtures.

Q. Like those you described the other day?

A. That is correct.

Q. Gas stoves?

A. That is correct.

Q. And other fixtures?

A. That is correct.

Q. Do you know whether those are owned by the company and sold by the company, those fixtures, or is that leased out or sold?

A. I believe them all to be the property of the 1658
Consolidated Gas Company.

Q. And how much of that second floor is taken up with the display of these appliances?

A. I am not prepared to make a statement on that.

Q. Half of it?

A. I imagine less than that.

Q. Is there anything else on the ground floor?

A. The branch superintendent has his office and his clerical staff there, and the clerks that keep the consumers' accounts for that district are there.

Q. Are the consumers' accounts of any other companies kept there to your knowledge? 1659

A. They are not.

Q. Do any other companies occupy any part of that floor?

A. They do not.

Q. The consumers' accounts of the Consolidated are kept there, some of them, aren't they?

A. For that district.

1660 Q. Well, your whole territory is divided up into how many districts, or isn't it so divided?

A. Five districts.

Q. That is the whole of the Borough of Manhattan is divided into five districts?

A. That is correct.

Q. And which one of the five is this?

A. 4.

Q. What is on the second floor of this building?

A. The second floor as near as I recall has the clerical staff up there, and I think they have some special display of their lighting fixtures up there.

Q. Electric or gas?

1661 A. Gas.

Q. Are there any electric lighting fixtures on the first or ground floor?

A. There are not. Not even for illuminating the place itself.

Q. How much of the second floor is taken up with the display of appliances or the storage of appliances?

A. I am not sufficiently familiar with the details there to make a statement.

Q. Is there any other company occupying part of the second floor?

1662 A. There is not.

Q. The third floor, what is that devoted to; to what use is that devoted?

A. I am not familiar with their layout on the third floor.

Q. Do you know who uses it, to your knowledge?

A. It is used in connection with the branch there. I have not followed it up since they got entirely settled in the place.

Q. Do you know the cost of that structure? 1663

A. Well, when you say——

Q. Do you know?

A. I think I have a pretty good idea now. Of course if you say cost, that means dollars, dollars and dollars, and so many cents.

Q. Just what it cost the company, that is all I want to know.

A. You mean in exact dollars and cents? I know in a general way.

Q. I want the exact cost if you can give it to me.

A. I cannot give you the exact cost in dollars and cents.

Q. Do you know the exact cost of the land? 1664

A. No.

Q. The records of the company will show how much that building cost, will they not?

A. Unquestionably.

Q. Upon what sheet is this Hester and Elizabeth Street property?

A. Sheet 1.

Q. Of Exhibit 178?

A. It is.

Q. That is another branch office, you call it?

A. It is.

Q. And what district is that? 1665

A. Branch 1.

Q. Well, district 1?

A. District 1.

Q. And there are two lots there, 5 and 1, are they not? Did the company have that property when you went into its employ?

A. They did.

Q. What kind of a building is on that plot?

1666 A. I have already described those at great length.

The Master: Well, do it again.

The Witness: On the northeast corner of Hester and Elizabeth Street, that is in lot 1, there is a brick building two stories with high basement. In the basement is the branch meter department for that district and the upper stories are occupied by the commercial branch. In the rear but detached from it, that is on lot 5, on the front of lot 5, is a building which is the headquarters of the department of mains and services for that district. In the rear of lot 5, that is in the northeast corner
1667 of it, is the brick building which houses the emergency wagon and crew for that district and adjacent to it is a brick building containing a heating plant. And then as I have already described, along the easterly side of lot 1 there is a building for the storage of pipe.

Q. What is in the basement of the building on lot 1?

A. The fitting shop of the meter department, and the clerical staff pertaining to that.

Q. That meter department, is that a meter department for this company and other companies?

1668 A. For the Consolidated Gas Company only.

Q. Did you say a heating place adjacent?

A. A heating plant adjacent to the emergency wagon house.

Q. On the second floor what is there?

A. Do you mean the first floor, the first main floor?

Q. The ground floor.

A. Yes. There is the main clerical staff of the

commercial department, the superintendent of the 1669
branch and his assistants.

Q. You mean the clerical branch that takes care of the display of fixtures, etc.?

A. The consumers' accounts. There is some display of fixtures there, gas fixtures.

Q. On the next floor is there likewise a display room?

A. On the second floor of the building?

Q. Yes.

A. I don't recall that there is. There are some clerks working up there, and I think there is a retiring room for the women employees.

Q. Anything else on that second floor? 1670

A. I don't recall any other uses.

Q. What is on the third floor?

A. There is no third floor there.

Q. On lot 5, is the mains and services building?

A. Yes.

Q. In that mains and services of other companies?

A. Of the Consolidated Gas Company.

Q. You know that relates only to this complainant of your own knowledge?

A. The Department there is strictly the Consolidated Gas Company.

Q. You know that of your own knowledge? 1671

A. I know that. There is no other company that has any department there.

Q. The Consolidated, however, performs work in regard to mains and services for other companies—from that chart, don't they?

A. I don't know of any.

Q. Now take sheet 9. On there you have shown

1672 one piece of property, lot 6, and you call that the 63rd Street holder yard station?

A. We do.

Q. And that is a gas holder?

A. Correct.

Q. One?

A. One.

Q. What is its capacity?

A. 3,000,000 cubic feet.

Q. When was that holder erected?

A. I don't know.

Q. It was there when you went into the service

1673 of the company?

A. It was.

Q. Where is the gas manufactured that supplies that holder; do you know?

A. I don't know.

Q. Who consumes the gas that is in that holder, the consumers of what company?

A. I don't know. The Consolidated, is my presumption.

Q. I asked you if you knew.

A. I don't know unless my inference——

Q. No, that is all, if you do not know.

A. Well, I don't know any more.

1674 Q. Is that being used now to hold gas?

A. As far as I know. It was inflated. I saw it recently, and it was inflated.

Q. Are there any other structures on that lot except the holder?

A. The brick fences, which enclose the property.

Q. It is enclosed with a brick fence?

A. Yes.

Q. Was the brick fence there when you went into 1675
the service of the company?

A. It was.

Q. And how high is that brick fence?

A. That is rather steep hill and the fence is stepped off down toward the east, to correspond to the slope of the hill; I should say 12 feet was a fair statement of the height of the fence.

The Master: Is there any governor or valve house in connection with that; or where is the governor house or valve house in connection with that?

The Witness: I am not familiar with the connections that go to or from this holder. 1676

Mr. O'Brien: May I ask a question here, your Honor? I think it will clarify it.

The Master: Yes.

By Mr. O'Brien.

Q. Your examination is not very definite there. You have stated here at folio 844: "Q. Referring to the land on East 62nd Street and East 63rd Street, between First Avenue and Avenue A, lot No. 6 in block No. 1457, which is a part of the holder station, or is the holder station at that point, what improvements, if any, are located on that land, and what use is made of the land and improvements by 1677
the complainant company? A. Lot No. 6 is shown on sheets No. 9 of Exhibit 178, and is occupied by a gas holder having a capacity of 3,000,000 cubic feet. The property on the south side of 63rd street and north side of 62nd street is enclosed by a fence of brick and stone construction." You did not make a positive statement there that this company is using that in the making of gas or in the gas making business?

1678 A. Well, if it is lacking, I will make it now. They are.

Q. Do you know that?

A. Yes.

The Master: That is all I will allow you to ask, Mr. O'Brien.

By Mr. Chambers:

Q. What other companies are in that immediate neighborhood?

A. The Standard Gas Light Company.

Q. How near to this lot is it?

A. They are adjacent and across the street.

1679 Q. Is that a place where it manufactures gas, the Standard?

A. No.

Q. Is there another company that has a gas manufacturing plant near this?

A. No, there is no manufacturing plant in that vicinity.

Q. Where do the pipes go that enter this holder —from which direction?

A. I don't know. I think they are in 63rd street. I am not familiar with the connections to this holder.

Q. You have said that the Consolidated Gas
1680 Company uses this holder. How do you know that?

A. By contact with my environment.

Q. Is that the only knowledge you have on the subject?

Mr. O'Brien: That is a spiritual affair, is it?

The Master: Do not answer that question. You will have to reserve that for your own cross, Mr. O'Brien.

Q. What do you mean by that?

A. I mean what I say. 1681

Q. How do you know now that the Consolidated use this holder?

A. I have answered the question?

The Master: Answer it again.

Mr. Chambers: I submit he has not.

A. By my experience and daily contact with the company's affairs.

Q. What affair of the company indicates that this is their holder or that is their gas?

A. The fact that it is under the supervision of the superintendent of the West 42nd Street station of the Consolidated. 1682

Q. Is it under his supervision?

A. It is.

Q. The superintendent of the West 42nd Street station?

A. Yes.

Q. Is that the only knowledge that you have that the gas is supplied to the consumers of the Consolidated, that it is under his superintendency?

A. That is one of the facts that stand out in my mind.

Q. Give me them all; give me the rest.

A. Many of them would be the petty daily inci- 1683
dents of life through a number of years, that I do not now recall.

The Master: I do not think there is any sense in following up that line of cross-examination. This witness does not know anything about it. His testimony is of no value on that.

Mr. Chambers: If you say that, I think that is a fact.

1684 Q. You do not know anything about to whom this gas is supplied out of that holder?

A. I do not know to whom it is supplied. I believe to the consumers of the Consolidated Gas Company.

Mr. O'Brien: You are using that term "believe" again? What does believe mean? Your Honor, I think we ought to have it. It is loose testimony, taking up your time and ours. You believe—you would think he was saying his prayers here.

The Master: Do you move to strike out the answer?

1685 Mr. O'Brien: I do, yes.

The Master: Granted. That is the quickest way to dispose of it.

Q. So that from your own knowledge you do not know——

The Master: He has answered it, Mr. Chambers, and I have made the statement that his testimony on that is utterly useless.

Mr. Ransom: You make the statement that his testimony is useless on that point?

The Master: I do not know anything about it. I make the statement so you may know

1686 what my idea is.

Q. Sheet 10, that is a holder station and meter shop, department yard on 66th street and West End avenue. That is block 1177, lot 21?

A. Yes.

Q. What structures are on that block?

A. Well, testifying without any memorandum, I would begin at the southwest corner of 66th street and West End avenue, where there is a two-

story building of fireproof construction, which is 1687
the district headquarters of the department of Mains and Services.

Q. How old is that building?

A. It was built in 1911 or 1912.

Q. Since you have been with the company, that is?

A. It has.

Q. What was the actual cost, do you know?

A. I don't remember. I knew, of course, at the time.

Q. How many stories?

A. Two.

Q. And brick, is it? 1688

A. Brick.

Q. What kind of roof?

A. Tile block roof.

Q. How large a building is it?

A. I don't recall the dimensions. I should judge it was about fifty feet by sixty.

Q. Now, the next building there?

A. Down at the northwest corner of 65th street and West End avenue, not immediately abutting on the street, but standing back from 65th street, is the one-story brick building for the emergency wagon service for that district. It is a building of 1689
fireproof construction and will accommodate two emergency wagons, and has a room for the squad, and an extension for the heating plant.

Q. When was that erected, that building?

A. At about that same time of 1911 or 1912.

Q. Any other buildings there in that corner?

A. Not in that corner, no.

Q. What other buildings are on that block?

1690 A. On the south side of 66th street, east of the railroad, is the building of the meter department and fitting department of that district and work shop.

Q. How large a building is that?

A. That is quite a large building. I don't remember the dimensions; I think it is about 100 feet on 66th Street.

Q. How deep?

A. It extends well back toward the middle of the block.

Q. How tall a building is it?

A. It is two stories and a basement.

1691 Q. There for repairing the meters that come in?

A. No, they do not repair them there. They are held there. The incoming and outgoing meters of that district are there, also appliances and ranges.

Q. Which district is this we are now operating in?

A. That pertaining to branch 4.

Q. Was that building there when you entered the service of the company?

A. It was not.

Q. When was that erected?

A. Some part of it was built shortly after I en-

1692 tered the employ of the company, and then it was extended at some later date than that, the respective years not being clear in my mind.

Q. Was it all built before 1906?

A. No, the extension to it was after 1906.

Q. But the main building was erected before that?

A. It was.

Q. It was there, was it not, the biggest part of it

was there when the other case was tried in 1907 or 1693
1906?

A. A larger part of it, doubtless.

Q. Any other structures on that block?

A. Adjacent to this meter and fitting shop, and to the east of it, are three small buildings for the storage of gasoline and oils, and wrought iron pipes. Then on the north side of 65th Street west of the emergency wagon house already described there are a group of one-story storage buildings.

Q. Then there is out in the center of the block a scale house with a wagon scale, and there is an enclosure for the electrically operated hoisting machinery for the derrick. 1694

Q. Now, the storage of gasoline, is that a building?

A. That is a building outside of the meter shop and to the east of it. It is covered with sheet steel.

Q. What kind of a building is that?

A. It is covered with sheet steel. I don't remember what the frame of it is.

Q. How long ago was that built?

A. As far as I remember some eight or ten years ago.

Q. Since you were with the company?

A. Yes. Everything in that block has been 1695
built since I was with the company.

Q. What are the dimensions of that storage of gasoline?

A. I don't recall; it is a small building.

Q. Now, the group of one-story buildings, when were those built?

A. I don't recall, but I imagine about 1905 or 1906. That is my best recollection.

1696 Q. Are those brick?

A. No, they are frame.

Q. What are the sizes or dimensions?

A. The group collectively must be some seventy-five feet long on the north side of 65th street.

Q. How wide?

A. Probably twenty feet.

Q. What are those used for?

A. Storage.

Q. Storage of what?

A. Pipe fittings and materials of that kind.

Q. Now, the scale house, when was that built?

A. Some ten years ago.

1697 Q. About 1907?

A. 1908, somewhere along there.

Q. What is that used for?

A. Weighing fittings, cast iron fittings.

Q. How large a building is it?

A. About six feet by eight feet. The platform scale, of course, is external to the building.

Q. Frame building?

A. Frame.

Q. Anything else on that block?

A. I have described the hosting derrick.

Q. When was that derrick put in there?

1698 A. 1914 or 1915.

Q. Now, across the street on Block 1157, there are two holders?

A. There are.

Q. And what is their capacity?

A. Four million cubic feet each.

Q. When were those erected, if you know?

A. I don't know.

Q. Were they there when you entered the service 1699
of the company?

A. They were.

Q. Where is the gas manufactured that goes into those two holders, do you know?

A. I do not know.

Q. Is there anything else on that block and lot except those two holders?

A. There is.

Q. What else?

A. There is a governor engine and exhaust house and a boiler house.

By the Master:

Q. One building? 1700

A. Two different buildings.

By Mr. Chambers:

Q. Two buildings, a governor and engine house is one building?

A. One building.

Q. And the boiler house is another?

A. Yes, sir.

Q. When was that first building, the governor and engine house built?

A. I don't know when the original building was built, but we have torn it all out and rebuilt it in my time.

1701

Q. When did you rebuild it?

A. There have been several operations conducted there in the way of reconstruction, and the last one, my recollection is, was in 1916.

Q. You mean your alterations were limited to the inside of the building?

A. No, it was not limited to the inside. We ex-

1702 tended it on the west and the rear, we tore out all the inside of the building.

Q. But the main building was left intact on the outside?

A. On the outside, that is correct.

Q. Was that there when you went into the service of the company?

A. It was.

Q. The boiler house, was that there when you went into the service of the company?

A. It was not.

Q. When did you build that?

A. About that same period of 1911 or 1912.

1703 Q. What kind of a building is that?

A. Brick building with slate roof on steel parlins, with terra cotta tiles.

Q. One story?

A. One high story.

Q. What are in it?

A. Three Babcock & Wilcox boilers.

Q. Purchased about the same time?

A. At the same time.

Q. New?

A. New.

Q. What is in the governor——

1704 A. I have not finished on the boilers. Also boiler feed pumps; feed water heater; and a forced draft fan, with the engine for operating it.

Q. What is in the governor and engine house?

A. There is one—I have no memorandum on this—one 68 cubic foot exhauster, of the cycloidal impeller type; one General Electric compressor of the rotary type and turbine driven, and another tur-

bine driven Sturtevant exhauster of the rotary 1705
type.

Q. How old are those pieces of machinery?

A. All of that machinery in there is new within this period of 1912 to 1916. Then there are the connections and valves. The connections and piping in there is very extensive.

Q. What is that machinery used for, in connection with the plant?

A. The two holders at this station.

Q. The boiler house likewise?

A. Yes.

Q. What is in the rest of the block, if anything?

A. To the east of the holders? 1706

Q. To the east of these two buildings you have been describing?

A. The brick fence that encloses the property.

Q. Isn't there a large space there in the easterly end of that block and lot?

The Master: Unoccupied by any building, you mean?

Q. No building?

A. There are two holder tanks on the easterly end.

Q. You do not answer my question?

A. Other than the two holder tanks there are no 1707
other structures east of the boiler house.

Q. About one-third of that is not occupied, though, except with those two tanks you have just mentioned, about 300 feet is not occupied at all, is there, on the easterly end of that lot and block?

A. I should say it was less than 300 feet on which there are no structures other than the two tanks.

Q. Well, isn't that about the situation?

1708 A. The situation is just as I described it. There are no other structures there except the tanks.

Q. You say a tank?

A. Yes.

Q. For drip oil?

A. No, gas holder tank. A gas holder consists of three parts, the tank, guide frames, and sections.

Q. You mean there was a holder there sometime, and this is the pit that is left, is that right?

A. I mean that those tanks are holder tanks.

Q. The holders are gone, aren't they?

A. They are.

Q. They have been taken away from there?

1709 A. Yes.

Q. And what you are speaking of on the easterly end are the pits?

A. They are the brick tanks of the two holders.

Q. What are those used for, the holders being gone?

A. They are standing there.

Q. They are not being used for any purpose?

A. No.

Q. They can't be used very well without the holders, can they?

A. No.

1710 Q. On the easterly end of that block, where these two holders have been removed, there is a space there of about 300 feet that is not occupied by anything with the exception of those pits where the holders were?

A. I think 300 feet is a little too much; about 275 feet.

Q. Now, is that enclosed by a fence?

A. It is a brick fence.

Q. Was that there when you went into the service 1711
of the company?

A. It was.

Q. How high is it, about?

A. About ten feet.

Q. Now, Sheet No. 11, the 99th Street Works. This is, generally speaking, a water gas plant, is it not?

A. Not generally speaking, but specifically speaking it is a water gas plant, if you care for accuracy.

Q. Well, it is a plant?

A. And a water gas plant.

Q. On the easterly end of Block 1670, Lot 1, there are four holders? 1712

A. Not on the easterly end, the westerly end.

Q. I mean on the westerly end?

A. Yes.

Q. With a capacity of how much each?

A. There are two with a capacity of 600,000 cubic feet——

Q. Which two are those?

A. The two holders standing side by side just north of 98th Street near Second Avenue.

Q. What capacity?

A. 600,000 cubic feet, each.

Q. Now, the other two? 1713

A. One is the relief holder. The one on Second Avenue just north of those two described is a relief holder of 150,000 cubic feet capacity. The one to the east, on the north side of 98th Street, is a holder of 300,000 cubic feet capacity.

Q. Were those there when you entered into the service of the company?

A. They were.

1714 Q. The gas entering the holders that you have just mentioned is manufactured here at this plant?

A. It is.

Q. Are all of these holders in use?

A. They are.

Q. Isn't there one of them that is not in use?

A. There is not.

Q. When did you last see those holders?

A. Within a couple of weeks.

Q. Is it not a fact that on July 26th one of them was not in use?

A. It is not the fact.

Q. You were not there?

1715 A. On July 26th? I don't recall the exact date, but I know——

Q. I ask you if it is not a fact that one of them was not in use on the 26th of July, and you say it was not, and I say you were not there on that day?

A. I might have been; I don't know.

Q. Were you?

A. I don't know, I would have to look up a memorandum.

By Mr. O'Brien:

Q. In order to find where you were on the 26th?

1716 By Mr. Chambers:

Q. That was this last Saturday. Were you there at that plant?

A. On July 26th?

By the Master:

Q. Were you there Saturday?

A. Not on Saturday; I was at 21st Street.

By Mr. Chambers:

Q. Then you do not know whether one of them was not in use or not?

A. If there had been any circumstance that

would have put one of those holders out of use I 1717
would probably have known, doubtless would have known it.

Q. Now, easterly from the four holders is a two-story building?

A. On the south side of the property, that is north of 98th Street, is the generator house.

Q. How long has that been there?

A. I don't know when the building was originally built, but we rebuilt it.

Q. When was it rebuilt?

A. In 1904 or 1905.

Q. What did the rebuilding consist of?

A. Tearing out the entire inside, reconstructing 1718
the roof, putting in new apparatus and floors.

Q. But the walls and the roof were left intact, were they?

A. The roof frame was left intact, substantially; we recovered it.

Q. If you are correct about it, that was rebuilt prior to the trial of the other case in 1906 or 1907?

A. Yes.

The Master: Do I understand, Mr. Chambers, that in the other case proof was taken as of December 31, 1905?

Mr. Chambers: I think if I recall, the Mas- 1719
ter announced in the beginning of his opinion that that is what he would do, he would fix that as the date. I was trying to see what he said about that.

Mr. Ransom: That was the general rule. There was certain testimony that as the case progressed during 1906 was of a later date, but as the broad and substantial rule it was as of December 31, 1905.

1720 Q. What is in the generator house?

A. Four water gas machines, together with their accessory equipment.

Q. When were they put in?

A. In that same period of 1904 and 1905.

Q. Were they new?

A. They were.

Q. Now, the next building in that block?

A. Well, on the south side of 99th Street, just east of Second Avenue, is the two-story office building and laboratory.

Q. When was that built?

A. I don't know.

1721 Q. It was there when you went into the service of the company?

A. It was.

Q. And what kind of a structure is that?

A. Brick building with slate roof.

Q. One story?

A. Two story.

Q. What are its dimensions, about?

A. I judge it is about seventy-five feet long and fifty feet wide.

Q. Now, the next building?

A. East of that is the meter house, in which the

1722 station meters are.

Q. How many station meters have you in that building?

A. Three.

Q. When was that building erected?

A. I don't know.

Q. And the meters, when were they installed?

A. One was put in about 1916.

Q. And the others?

A. I do not recall when the other two were put in. 1723

Q. Were they there when you entered the service of the company?

A. My impression is that one was, and one was not, that one was put in after I came with the company.

Q. That one was there when you came into the service of the company?

A. Yes.

Q. Now, the next building?

A. East of the meter house is the purifier house.

Q. When was that built?

A. I don't know. 1724

Q. It was there when you went into the service of the company, was it?

A. It was.

Q. What is in the purifier house?

A. Eight purifier boxes together with their accessory piping and equipment.

Q. Were they there when you went into the service of the company?

A. They were.

Q. What kind of a building is the purifer house?

A. Brick building with a slate roof.

Q. What are its dimensions, about? 1725

A. I do not recall the dimensions of the building. I have no memorandum before me.

Q. Now, the next building?

A. East of the purifier house is the condenser and scrubber house.

Q. One building?

A. One building, yes.

Q. And in that building are the condensers?

A. There are two multitubular condensers and two vertical shaving scrubbers.

1726 Q. When were those condensers installed, before your time?

A. They were.

Q. And the scrubbers the same?

A. The scrubbers we rebuilt in 1917 from some shells that were there. We altered the shells and changed the entire mechanism and connections.

Q. Any other buildings on that block?

A. The building east of the condenser and scrubber house is an engine and exhauster house.

Q. What is in there?

A. The engine and exhauster, with the accessory piping and valves.

1727 Q. What kind of a structure is that?

A. Brick building with a slate roof.

Q. Was that there when you went into the service of the company?

A. It was.

Q. Was that there when you went into the service of the company?

A. It was.

Q. Any other buildings there?

A. North of the generator house is the engine room.

Q. What is in that, or is that a room or a build-

1728 ing?

A. It is a building.

Q. What is in that?

A. There are the works exhausters, and the engines and blowers pertaining to the plant.

Q. Was that building there when you entered the service?

A. The present walls were there, but we tore the entire insides of it out.

Q. In what year did you do that?

A. There have been two particular operations 1729
there in doing that, the last having been, as near
as I recall, about 1914 or 1915.

Q. And the prior one?

A. Of course I am speaking from memory.

Q. When was that?

A. About 1905 or 1906.

Q. Any other buildings?

A. East of the engine and exhauster house there
is a long building which has two extensions, three
extensions, and on the westerly end there are four
boilers of the Babcock and Wilcox type, and a
steel smoke stack is in the rear of the boilers, pro-
jecting up through the roof of the building. On 1730
the easterly end of the building is stored the re-
fractory materials. In one extension there are the
toilet facilities for the workmen. In another ex-
tension are the hydraulic pumps and accumulator.
In another extension there are more pumps, and
in a room built in the interior of the building is a
machine shop.

Q. Those boilers you spoke of in this long build-
ing, were they there when you entered the service
of the company?

A. They were not.

Q. When were those installed? 1731

A. As I recall, without a memorandum, two were
put in shortly after I entered the employ of the
company, and two more about 1905.

Q. Then they were all installed between 1902 and
1905?

A. Correct, that is, as near as I remember. I am
testifying without a memorandum. That is my
best recollection.

Q. I don't know anything about that of course.

1732 The long building, was that there when you entered the service of the company?

A. It was.

Q. What is that, a frame structure?

A. Brick, with slate roof.

Q. And the smokestack or chimney—you spoke of it as a smokestack?

A. Yes.

Q. Was that there when you entered the service of the company?

A. No.

Q. When did you put that up?

A. Just rebuilt it last year.

1733 Q. Well, there was one there?

A. Yes.

Q. What happened to the other one so you had to rebuild it?

A. I think the top was blown off by a storm.

Q. And you rebuilt the top?

A. No, rebuilt it all if I recall.

Q. The entire stack?

A. I think we did.

Q. Well, do you know?

A. That is my best recollection.

Q. Any other buildings on this block No. 1670?

1734 A. A coal shed south of the long building containing the boilers, a brick coal shed.

Q. That is used to store coal?

A. Yes.

Q. What is the capacity of that, do you know, how many tons?

A. I do not recall just how many tons it would hold.

Q. Now is that all there is on that block?

A. No. On the south side of 99th Street, just 1735
west of First Avenue, there is a tank for the storage of gasolene, and a tar separator, and multi-tubular condensers, and two vertical shaving scrubbers out in the open.

Q. You spoke about those two scrubbers.

The Master: Mr. Chambers, I have just been looking along about pages 284, 285 and 286. It does seem to me it is an awful waste of time to have this witness repeat all of that testimony over and over again. He has told us what is on that property.

Mr. Chambers: Well, he just ran it off in a general way. 1736

The Master: I think your cross-examination ought to be limited to the information that you want to elicit with reference to the type of buildings, the character of them, etc.

Mr. Chambers: That is what I am trying to do.

The Master: No, you are practically getting him to testify to all this over again. I think it is a waste of time.

Mr. Chambers: At folio 850, I see there just a paragraph about this. He says,

"Located on this block are two large gas 1737
holders, governor house"——

The Master: He spreads that out over pages 284, 285 and 286, and 287, in great detail, just what is on every block and every lot. Of course I appreciate that you want to get information additional to what he gave in his direct testimony, and that is the province of the cross examination.

Mr. Chambers: I wanted to find out some

1738 details that he did not give. I didn't have a chance to read all that.

The Master: Anything that he didn't give, but I don't think it is going to help us any to have you repeat over and over again what is on these blocks. It is just duplicating testimony already given. I think you ought to go over this testimony during the afternoon recesses.

Mr. Chambers: I don't have the time, if your Honor please.

The Master: I am not going to permit you to ask these questions. You will have to find time. I think you ought to make notes of what

1739 you want after reading his testimony and confine yourself to these inquiries.

Mr. Chambers: Well, I can use this as a basis.

Q. When was the high brick fence building, if you know, that you spoke of in your direct examination, when was that erected?

A. Referring to a brick fence around block 1670? I haven't that testimony in front of me.

The Master: What folio are you referring to?

Mr. Chambers: You called my attention to

1740 page 284, folio 850. That seems to be another block.

The Master: It starts down below there, referring to block 1670, and tells what is there, and he proceeded to say that on the north side of 98th street, east of Second avenue are four gas holders, having a storage capacity of 600,000 cubic feet and 100,000 cubic feet, etc.; that on the south side of 99th street east of Second avenue is a three-story office building where the superintendent of the works has his office,

clerical staff and laboratory equipment; that 1741
east of the building just described is a meter house which contains three station meters, and that east of the meter house is the purifier house, etc.

Now, he has not given the age of those buildings and other information you are inquiring about, and that I am going to let you ask.

Mr. Chambers: I can ask him right from his direct.

The Master: Certainly, that is the way to ask him. You were down to the coal shed, which is the last paragraph on that page.

Q. When was the engine exhauster— I have 1742
gotten whether I asked you about the engine
haust house.

A. You did.

Q. Now, the accessory valves and piping, have
u spoken of when those were installed, do you
ow?

A. In which building, referring to which build-
g?

Q. Well, I don't know; folio 855.

A. If you don't know what your question is, I
n't know how to answer it.

the Master:

1743

Q. In the engine and exhauster house you said
re were accessory valves and piping. When
re they installed?

A. The accessory valves and piping in the engine
d exhauster and blower house, if that is the build-
g referred to, next to the generator house, that
s built—all such equipment in that building was
in there from 1904 to 1916.

The Master: Let us make sure we have the

1744 right building. Mr. Chambers probably refers to the statement at folios 854 and 855 on the south side of 99th street near the east end of the block, where you say there is an engine exhauster house, containing an engine and exhauster, and the accessory valves and piping to be used in connection with receiving gas from other stations, or sending gas to other stations?

The Witness: No, I was referring to another one.

The Master: I think when we once get away from this particular plot and follow the testi-
1745 mony, we will cover it and save a lot of time.

The Witness: That is another building from the one I just made the statement about.

By Mr. Chambers:

Q. When were those installed, before your time?

A. Yes; that is, in this engine exhauster house on the south side of 99th street near the east end of the block.

Q. Now, the coal shed that we were speaking of. Was that there when you entered the service of the company?

A. It was.

1746 Q. Now, the blowers which you have mentioned as being in the engine room; were those there when you entered the service of the company?

A. They were not. I just gave an answer a few moments ago in which I said everything in that building about which you are now asking was put in from 1901 to 1916.

By the Master:

Q. That is the engine room north of the generator house?

A. Correct.

Q. Referred to at folio 856?

A. Yes.

By Mr. Chambers:

Q. Now, what do you mean by refractory materials that you have spoken of a number of times?

A. Materials for resisting heat. They are the brick and special tile block used in lining the generators and the furnaces of the boilers.

Q. The hydraulic pumps which are in the building, in the long building, when were those installed?

A. All of the pumps that I testify as being in that building, were put in in that period from 1904 up to 1916, say.

Q. And the hydraulic accumulator?

A. The hydraulic accumulator was there when I entered the employ of the company.

Q. And the pumps used in supplying gas oil to the water gas generator?

A. 1905.

Q. Now, these twelve underground tanks for the storage of gas oil, were they there when you entered the service of the company?

A. They were.

Q. The tar separator equipment, was that there?

A. No, it went in about 1904 or 1905.

Q. Then you testified to numerous pumps and separators?

A. Yes.

Q. You did not tell what they were, how many pumps or what kind of separators they were. Do you know?

1750 A. Without a memorandum I could not testify in particular detail about that miscellaneous equipment.

Q. On block 1670, lot 1, are there not some coal gas benches there which are not in use at the present time?

A. No.

Q. There are none?

A. No coal gas benches.

Q. Now, block 1692, lot 1, the small two-story house occupied by Joseph Stannek, when was that two-story house built, do you know?

A. No.

1751

Q. Is that house on the property in pink?

A. It is.

Q. About where is it located?

A. On the southeast corner of 99th Street and First Avenue, near the property lines on both streets.

Q. He lives there, Joseph Stannek, with his family?

A. He does.

Q. You don't know by what arrangement?

A. By what arrangement?

Q. Yes.

1752 A. I know a part of the arrangement. It is so that he will be available for emergency duty during the night. He has to be available at any hour of the day or night.

Q. You have included it as a gas operating piece of property?

A. Yes.

Q. But it is not used in any way in making gas?

A. It is.

Q. This man lives there with his family? 1753

A. Yes.

Q. You call that making gas?

A. His services are very necessary at the plant.

Q. You don't live on the gas property, do you, anywhere?

A. No.

Q. You would not say that your services were not important?

A. But this man performs duties——

The Master: One moment, I will not allow this, it is argumentative.

Q. Now, the scale house, was that there when you went into the service of the company? 1754

A. I don't remember.

Q. It has been there a long time, hasn't it?

A. It may or may not have been; I don't remember.

Q. It is a house with scales, wagon scales?

A. Correct.

Q. The rest of that block is occupied, you said, in the storage of coal?

A. Correct.

Q. Then there is nothing else in that block but what you have mentioned?

A. A tar tank just south of Stanuck's house. 1755

Q. Tar tank?

A. Yes.

Q. You didn't say anything about that on your direct?

A. I surely did.

Q. Well, here is your direct, show me. I don't see it?

A. At folio 860.

1756 Q. What did you say about it?

A. It says there, "There is also a car storage track adjacent to the dwelling house just described." That should be, "There is also a tar storage tank adjacent to the dwelling house just described."

Q. What kind of a tar storage tank is that?

A. It is a steel tank twenty-one feet in diameter and twenty-one feet high.

Q. That is a by-product, that tar?

A. It is.

Q. Was that there when you entered the service of the company?

1757 A. It was not.

Q. Now, the next you spoke of on your direct was the 111th Street property on Sheet No. 12 of Exhibit No. 178. Now, the two large gas holders which you spoke of as being on Lots 8 and 11 of Block 1682, were they there when you entered the service of the company?

A. They were not.

Q. When were they erected, if you know?

A. They started them just then, at the time I entered the employ of the company.

Q. 1901?

1758 A. Yes.

Q. When were they completed, in a year?

A. Together with the related governor and exhauster house they were probably not completed until the early part of 1903, the best I remember. That was quite an extended operation.

Adjourned to Wednesday, July 30, 1919, at 9:15 A. M.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 1759

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 30, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. HAYWARD (by JOHN H. CLARK, JR.), of Counsel for Public Service Commission. 1760
MR. O'BRIEN, of Counsel for defendant Swann.

The Master: Mr. Chambers, I have been thinking about your difficulties in Albany. As I said before, I want to solve these situations as best I can, and at the same time comply with Judge Mayer's order. We have all agreed to run this matter four hours a day, which is practically twenty hours a week. I think if it 1761
is agreeable to all counsel in the case, that for the two weeks following next week we will run six hours a day for two weeks, so as to catch up for the twenty hours that we lost next week, and then I am going to adjourn these hearings for a week, with the understanding that Judge Nichols has got to finish that case, if he has to run all day and all night and Saturday and Sunday—with the understand-

1762 ing that for the following two weeks, we will sit six hours a day to catch up the time that we lose next week.

Mr. Ransom: Is that agreed to by all counsel?

The Master: I won't do it unless all counsel agree.

Mr. Ransom: The difficulty is that some of the counsel for the defendants,—not all of them,—are endeavoring to prevent these hearings from going ahead at all.

The Master: Of course, they cannot do that. Unless Mr. O'Brien and Colonel Hayward's
1763 representative agree to that procedure, I will not do anything about it. I am going to do that only if it is agreeable to all counsel. I say "all counsel", for I infer from Judge Ransom's statement that he will not oppose. If he did oppose I should overrule his opposition, I think, but I surely won't do it unless all counsel for the defendants are agreeable.

Mr. Ransom: May I state the viewpoint of the complainant? Any delay in this case is a very serious thing from the viewpoint of the complainant. At the same time, as a member of the bar, I am accustomed to get along in amity with opposing counsel, and recognizing
1764 the reasonable adjustments that have to be made at times between conflicting engagements, in spite of the very great inconvenience to my clients, I am not going to make any objections based upon an impossible or improper program. If we can have an agreement upon the part of defendants' counsel, whereby the trial will go on uninterruptedly, and whereby our time is made up very soon, for what time

may be lost during the coming week, I should 1765
feel bound to abide by your Honor's view in the matter without objection or exception.

The Master: That is the thing I have been trying to work out. I had assumed from the order appointing me Master it was the Court's opinion that we should have a quick and expeditious disposition of this matter, and I have that direction in mind. I have in mind too, that there are certain limits to what can be done, and it was with that in mind that I arranged for counsel to run four hours a day solid, and I think that is as hard as we can work. 1766

Mr. Ransom: Under these weather conditions.

The Master: Under these weather conditions, yes. Taking that as the basis, four hours a day, it means that in the next three weeks we ought to put in sixty hours and instead of putting in twenty hours next week, we can put in thirty hours each of the following two weeks, and thus we will not lose any time.

Mr. Ransom: I think you would be exercising the discretion which would be within your Honor's power.

The Master: It is rather awkward and in- 1767
convenient to me, but I will do it if all counsel for the defendants are in accord. That is what I am willing to do.

Mr. Ransom: They can talk that over and let us know.

The Master: That is why I am telling Mr. Chambers now my views, so that he can arrange accordingly. Will you talk that over

1768 with other counsel, Mr. Chambers, and let me know to-morrow?

Mr. Chambers: Yes. I cannot get Colonel Hayward in person, but I can write him or telephone him.

The Master: He will be agreeable to that, I am sure.

Herbert W. Alrich, resumed the stand:

Cross-examination continued by Mr. Chambers:

Q. When we left off yesterday, Mr. Alrich, we were discussing the two holders on block 1682, lot
1769 11, sheet 12, Complainant's Exhibit 178. Have you that before you now?

A. I have.

Q. You had just told me that these two holders were probably not completed until the early part of 1903. Is that correct?

A. That is my recollection.

Q. You spoke next of a brick building on the south side of 111th street; when was that built?

A. Could you refer me to the page and folio?

Q. Folio 861, page 287.

A. The building referred to in folio 861 is on the
1770 south side of 111th street, between the two holders, and was built at the same time the holders were.

Q. That would be about 1903?

A. 1902 for the building, and the equipment in there was finished about 1903, as I recall.

Q. Was it a reconstruction of a building or new construction?

A. Absolutely new from the ground up.

Q. What is the size of that building; do you know? 1771

A. I don't recall the dimensions. It is probably 100 feet on the street.

Q. How many stories?

A. It is one high story and a high basement in which the pipe connections are.

Q. You say there are two engines in this building?

A. There are two Payne engines.

Q. When were they put in?

A. At this same period of 1902.

Q. And were they new?

A. They were new. 1772

Q. The two exhausters, when were they put in; at the same time?

A. At the same time.

Q. Were they new?

A. They were.

Q. And they are there now, those two exhausters?

A. They are.

Q. And have been in use ever since?

A. They have.

Q. And the photometer equipment, that is for ascertaining the quality of gas, is it not? 1773

A. Yes, the candle power.

Q. And was that put in at the same time?

A. No, it was not; not until some years later.

Q. When was that put in, what year?

A. I do not recall, Mr. Chambers, only that was put in some time after the building was built, some period of years.

1774 Q. What does that consist of, that equipment? The photometer, I assume for one thing?

A. Yes, it is a dark room constructed within the building, and inside of that dark room, the interior of which is painted a dead black, are the photometrical instruments.

Q. Next you spoke of a boiler house?

A. Yes.

Q. Containing three steam boilers?

A. Yes.

Q. Is that a separate building?

A. Entirely separate.

Q. That is on block 1682, is it not?

1775 A. Correct.

Q. The same lot?

A. It stands in about the space between the word "block" and the numeral "1".

Q. Meaning the numeral "1682"?

A. Yes.

Q. When was that built, that boiler house?

A. In 1902.

Q. Was it new construction?

A. It was.

Q. What is the size of that, if you know?

A. I don't remember the dimensions.

1776 Q. One story?

A. One story.

Q. The three boilers in that building, when were they installed?

A. In 1902.

Q. And have they been used since?

A. They have.

The Master: Ever since?

The Witness: Ever since.

Q. What make are they, do you recall? 1777

A. The Bigelow Company, though they represent no special type of boiler.

Q. That is the maker's name?

A. That is the builder's name.

Q. This also has a fence around it, this lot?

A. It has.

Q. An iron fence?

A. An iron fence.

Q. How high?

A. I think it is 8 or 10 feet, Mr. Chambers.

Q. Was that erected about 1902, or was that there before that?

A. No, it was put there very much later. 1778

Q. From what you said, the holders were there prior to your coming with the company?

A. I did not so state. I stated that nothing was there when I entered the employ of the company.

Q. This was entirely constructed in 1902, holders and all?

A. The whole thing, and I so testified.

Q. This was in addition then to the plant of the company?

A. It was an entire new addition.

Q. I suppose because of the growth of the gas business? 1779

A. I do not know the reasons that brought about this construction.

Q. You have noticed since you have been with the company, have you not, that there has been a steady growth in the output of the company?

A. I believe in a general way there has been a growth. Whether it has been steady or irregular I don't know.

1780 Q. In other words, the business of the company has grown?

A. That would be my understanding, that it has grown, yes.

Q. It has not gone down hill, has it?

A. Well, when they have had bad years they probably have.

Q. Was that all on Block 1682?

A. That is all.

Q. Is there something else?

A. That is all.

Q. Where does the gas come from that enters the two holders on that block,—from what plant?

1781 A. I don't know.

Q. Where are the pipes that lead to or supply the holders?

A. There is a 48 inch line in First Avenue that connects over through 127th Street and Lawrence Street with the West 132nd Street station.

Q. There is not any plant nearby here of the Consolidated Company, is there, where gas is made?

A. The 99th Street station.

Q. And that is the nearest station?

A. It is.

Q. Is it connected with the 99th Street station?

1782 A. It is.

Q. These holders?

A. They are.

Q. Is it connected with any other station other than 99th Street?

A. With the 21st Street.

Q. Any others?

A. Well, I know in a general way that the gas from any of the Consolidated Gas Company's plants can be put into any holders.

Q. Can it from the Astoria Company too? 1783

A. It could. That is, I am referring to 111th Street.

Q. Isn't it possible also, referring to this, that it could receive gas from other plants or other companies other than the Astoria? I mean they could be connected up?

A. That is a sphere beyond my range of information.

Q. You do not know that this particular plant is situated so that it can receive gas from any of the different companies?

A. I don't know.

Mr. O'Brien: I would like to ask the witness 1784
a question right here, your Honor, to save a little time.

By Mr. O'Brien:

Q. When you say you do not know that, do you mean that you have not actually seen the mains connected? Do you mean to assert that you have not any basis for forming a judgment on it?

A. I mean that, that I have not the basis on which to form the judgment.

Q. That you have never seen anything in connection with the business of the company to warrant you in believing that it is connected up, and 1785
that they can connect up the whole system with subsidiaries?

A. I did not say the negative. I say that belongs to a sphere with which I am not familiar.

Q. You might know it without being familiar with it.

A. Your question would bring in the Mutual

1786 Company. I could not tell you in respect of the Mutual Company.

Mr. Ransom: We of course will offer proof on the matters on which the defendants insist on interrogating this witness.

The Master: That is all right, I am going to let them go so far as to say they do not know.

Mr. O'Brien: I will take it up later, your Honor. Pardon me for interrupting; I will take it up later.

By Mr. Chambers:

Q. You base your answer on the fact that the Mutual Company was excluded. Excluding the
1787 Mutual Company, take the Standard and the New Amsterdam.

The Master: And the Astoria.

Q. And the Astoria. Can't they be connected up with these holders?

The Master: You have been asking first whether they were in fact so arranged as to be presently connected up.

Mr. Chambers. Yes.

A. The question is, is the Astoria Company—are these holders so connected that the Astoria Company could put the gas into them?

1788 Q. No, so built, so piped and so constructed.

The Master: That is the same thing.

The Witness: Yes, these holders at 111th Street are so connected with respect to the Astoria Company.

The Master: How about the others?

Q. How about the Standard?

A. Well, I believe that is the situation. I am not familiar with any such connection.

Q. How about the New Amsterdam? 1789

A. If there is such a connection, as far as I know it would be an indirect one. I don't know of any direct connection.

By the Master:

Q. As to the Mutual you do not think there is any?

A. That would be a matter beyond my knowledge, as to the Mutual Company.

Q. You would not know anything about that?

A. No.

Q. The next question that Mr. Chambers asked, and I am going to permit it to be answered, is: Could connections be made to connect up all these companies if they are not so connected now? 1790

A. They could. We could make a connection with the gas works in Philadelphia.

The Master: Proceed.

Mr. O'Brien: I move to strike that out, your Honor.

The Master. No, I think that is all right.

Mr. O'Brien: That Philadelphia stuff is——

Mr. Chambers: I did not hear what was said.

The Master: It is quite apparent to me from a layman's knowledge that that could probably be done. 1791

Mr. Chambers: You cannot connect up with the Albany Gas Company?

The Master: Why not? All you have got to do is lay your pipes.

Mr. Chambers: We are speaking now of a plan here whereby all the mains are laid and connected and ready to turn on. If you were to

1792 go to Philadelphia you would have to lay your pipes.

The Master: That is why I subdivided your inquiry into two parts: Are the mains so laid and connected now as to carry gas from this holder into 111th Street?

Mr. Chambers: That is a fact, isn't it?

The Master: He has answered as to the Astoria that he knows that is so; as to the New Amsterdam he states that is so.

The Witness: I think that is the situation.

Mr. Chambers: As to the Standard?

1793 The Master: As to the Standard he does not know.

The Witness: I think that the Standard can indirectly.

The Master: As to the Mutual he has no knowledge at all. Your next inquiry is, could it be done? Of course it could be done and the witness has so said.

Mr. Chambers: I do not care to ask him if it could be done. What I want to do is to get the fact that it is already here.

Mr. Ransom: Well, the fact as to the main lay-out and as to what connections can be

1794 made, and where gas can be turned in and out from one manufacturing plant or another—those involve questions of main lay-outs on which we shall offer proof.

Mr. Chambers: It all goes to prove that to unscramble this situation is beyond all possibility.

Mr. Ransom: I object to that statement.

The Master: I think you have got as much as this witness can give you on that.

By Mr. Chambers:

1795 Q. Where does the gas go that leaves these holders, do you know? Does it go up in Harlem?

A. Some of it goes to 132nd Street station, West 132nd Street station.

Q. Does it go to the Bronx?

The Master: To what, Mr. Chambers?

Mr. Chambers: To the Bronx.

A. It can go up through that 48 inch line that runs through Morris avenue to the Kings Bridge holder. I say that without pretending to know the Company's practice in circulating the gas.

Mr. O'Brien: I don't think the witness needs to put that in or elaborate on his statement, 1796 your Honor.

The Master: I am going to allow it.

Mr. Chambers: He is making plenty of reservations.

Mr. O'Brien: He wants to speak *ex-cathedra* on these matters, and then he says the next minute that it is outside of his sphere.

Mr. Ransom: There is a very great difference between what the physical layout of mains and valves is and the question as to where gas is actually sent, and he says it could be sent up through this large main to the Kings Bridge 1797 holder. He did not undertake to say whether as a matter of operating practice, on which later testimony will be offered, it is or is not at any particular day or any particular time or all times.

The Master: Next question, Mr. Chambers.

Q. Were you assigned a certain amount of testimony that you were to give in this case?

Mr. Ransom: I object to the question.

1798 Q. Was there any limitation?

Mr. Ransom: I object to the question.

The Master: I think the question is objectionable in form.

Q. What was the arrangement by which you were to testify in this case?

Mr. Ransom: I object to the question.

The Master: I will sustain that too. I will let you ask him what, if any, conference he had with anybody with reference to the arrangements to testify.

Q. With whom have you conferred in regard to the giving of your testimony here?

1799 A. The counsel for the Complainant, meaning Judge Ransom and——

Q. Mr. Garver?

A. No, I have not seen Mr. Garver.

Q. Anybody else except Mr. Ransom?

A. Mr. Goets and Mr. Vilas.

Q. And the subject of what you were to testify to was gone over, was it?

A. Briefly.

By the Master:

Q. Well, it was gone over?

A. But very briefly.

1800 Q. But the question is, was it gone over?

A. To some extent.

Q. Then it was gone over?

A. Not with——

Q. Answer the question. Judge Ransom is here——

Mr. O'Brien: These counsel will take care of you; don't worry.

A. I am trying to make it clear.

Mr. Ransom: The witness is stating the 1801
literal fact. The witness has got the right to state the facts.

The Master: The witness has got the right to answer the question, and that is the way we will get through more quickly than any other way. What I am trying to do is to conduct this proceeding and investigation in strict accordance with the rules of evidence, because that is the quickest way to dispose of it. Now the witness' answer to that question ought to be yes or no. It was gone over, wasn't it, or was it not?

The Witness: All that I have gone through 1802
here was not gone over.

Q. Was the testimony, the subject-matter of the testimony you are about to give, discussed?

A. It was.

By Mr. Chambers:

Q. In this discussion of the testimony, what testimony was discussed as to be given by you—along what lines?

Mr. Ransom: I object to the question as incompetent and immaterial.

The Master: I think it is a fair question. The witness has already answered it once, but 1803
I am going to let him answer it again. He told us on his direct-examination what he was called in to testify about.

A. It referred to the Exhibit 178, the preparation of it and a general statement of what structures and what use was made of the property shown on the eighteen sheets of that exhibit, though he did not warn me in advance that he was going to ask

1804 me on direct to state in such detail all of the structures that there were here.

Q. Were other witnesses present at the same time, prospective witnesses?

A. I don't recall. Other persons came in and went out of the room. I do not think other witnesses were present.

Q. At this conference were you told not to testify to anything except what structures were on this property?

A. I was not.

Q. Nothing said about it?

1805 The Master: I won't allow any more questions on that.

Mr. Chambers: You see, if your Honor please, it looks to me as if they turned it out——

Mr. Ransom: He can tell what he was asked to testify to.

The Master: Judge, I am going to criticise your making speeches.

Mr. Ransom: I am not making speeches.

The Master: It is entirely unnecessary. You are the man in this case who is most anxious to get through quickly, and we will get through

1806 most quickly if you do not commence upon other comments.

Mr. Ransom: I do not like this attitude on the part of the defendant, of trying to fill the record with a lot of improper little reflections and then not allow me an opportunity to comment upon them.

The Master: What difference does it make? It does not help me in arriving at a decision

on the facts or aid the Court in arriving at a decision as to the facts. 1807

Mr. Ransom: The attitude might be on the part of counsel in the writing of briefs or the argument of this case in the Appellate Court, that because I kept silent on these things, I admitted them.

The Master: Nobody need ever be afraid of that.

Q. Mr. Alrich, I am now at folio 683. If you follow that we can get along faster.

A. I am ready.

Q. Now, you see that paragraph where you spoke of a building—— 1808

A. That is garbled badly. It begins, "Lot 5." I provided a correction on that.

Q. What building did you mean to describe first as being on Lot 5?

The Master: If the direct testimony is not clear I am going to let you ask him just what there is on there in order to get it clear.

Q. On Lot 5, Block 1704, Sheet No. 12 of Exhibit No. 178, give us the first building, will you?

A. The first building is just east of the untinted area, which is Lot No. 1, Block 1704, not the property of the Consolidated Gas Company. 1809

Q. You mean Lot No. 1 is not the property of the Consolidated Gas Company?

A. Lot No. 1 is not the property of the Consolidated Gas Company.

Q. Lot No. 1 is untinted?

A. Yes.

Q. And the building is on the tinted part?

A. The building is on the tinted area east of

1810 that property line and immediately abutting it. It extends clear through the block from 110th to 111th Street.

Q. What kind of a building is that?

A. It is a brick building with steel frame, one story, and the northerly part there is a garage, and the southerly half is a stable.

Q. When was that built, if you know?

A. There was a building there when I entered the employ of the company, and we tore that down, except the two end walls and a portion of the side wall, and rebuilt it entirely, other than those portions of the walls that remained, and the foundations.

1811

Q. When was that, what year did you rebuild it?

A. About 1911 or 1912.

Q. Is it a stable used now?

A. It is. There has been a reconstruction inside since it was first built. It was first built entirely as a stable inside, and then we afterwards ripped out the stalls in the northerly half and reconstructed that as a garage.

Q. What district is this block in, which one of your districts, district number what?

A. Of the commercial department it is the Sixth

1812 District, the office of which is at 114th Street and Third Avenue. For the street department, that is the department of mains and services, that is what we call in a general way the uptown district, meaning the 111th Street district.

Q. Well, the stables and automobiles are used in what, the street department?

A. The street department and the commercial

department; also in connection with the holder 1813
station across the street on block 1682.

Q. What companies keep their automobiles in there of these different companies?

A. Only the Consolidated.

Q. You are sure about that?

A. I have noticed several times recently that there were no automobiles there except those of the Consolidated Company.

Q. How about horses, any horses or wagons of the other companies?

A. As far as I know no horses except those of the Consolidated Company.

Q. Now, work is done from that building on the 1814
streets, some work, from the garage and from the stable?

A. Yes.

Q. As well as the commercial end?

A. Yes.

Q. How much commercial end do they take care of? It is very little, isn't it? Isn't that mostly a street department?

A. No, the meter wagons and wagons used in conveying appliances, are kept there.

Q. I assume then also, that automobiles, as well as wagons used in delivering appliances which the 1815
company sells, are kept there?

A. Are quartered there, that is, for this district.

Q. That is quite an extensive part of the business, isn't it, the selling of these appliances?

A. I don't know that I can characterize the extent of it. I presume it is a business of some magnitude, judging from the number of wagons they use in the service.

1816 Q. Then you described a stable, an annex stable building?

A. Yes.

Q. When was that built?

A. That was there when I entered the employ of the company, but we have entirely reconstructed the inside of it.

Q. Is that a frame building?

A. It is brick, with slate roof.

Q. When did you remodel the interior of that building?

A. We have done that twice. I have improperly described it as a stable. The last alteration we
1817 changed it to a garage. It was at first a stable, then a blacksmith shop, then back to a stable, and now it is a garage.

Q. When did you reconstruct the interior the first time?

A. I don't remember. About every two years we have done something to that building, tearing it out.

Q. When was the last work that you performed on it?

A. About two years ago.

Q. Then you spoke of emergency wagon service.
1818 What did you mean by that? Is that a building?

A. That is a brick building in which the emergency wagons are housed for that district.

Q. What kind of a building is that?

A. Brick building, fireproof construction, one story.

Q. When was that built?

A. About 1911 or 1912.

Q. New then?

A. New, brand new. 1819

Q. How large a building is it, the floor space, I mean?

A. About 30 feet wide on 111th street, and I judge about 25 feet the other way.

Q. Now, the building for the storage of wagons, when was that building which you described next built?

A. About 1911 or 1912.

Q. And the wagons of what company are stored there?

A. The wagons of the Consolidated Gas Company's street department and larger meter trucks 1820 are put in there.

Q. Any delivery wagons for the appliances stored there?

A. Yes.

By the Master:

Q. Those delivery trucks that you speak of are the wagons that deliver these appliances?

A. They are.

By Mr. Chambers:

Q. When was that built?

A. I have already answered, about 1911 or 1912.

Q. How large a building is that?

A. I judge it is about 100 feet long, extending 1821 southerly from the rear of the emergency wagon house.

Q. Now, you said on the easterly end of the block is a coke handling equipment and coke storage bin. What did you mean by coke handling equipment? What does that consist of?

A. Referring to sheet No. 13, which is the next sheet beyond this, which shows block 1712, lot

1822 2, there is a dock there, on which there is a hopper for receiving the coke from storage barges. That hopper is connected to a conveying belt which inclines upward on a trestle work and crossed Pleasant avenue to the premises block No. 1704. Near the easterly end of block 1704 there is a coke storage and screening plant built of steel and brick. The coke can be deposited, screened, sorted and deposited in that storage building and be drawn out of the hoppers and put into carts. Then there is beyond that, and extending on the north side of 110th street, a telferage system for the handling of coke in smaller quantities as it may be drawn off
1823 from these storage bins.

Q. Where does the coke come from that you handle there?

A. Astoria.

Q. And that is a by-product from the Astoria plant?

A. It is.

Q. Now, the Astoria Company you said yesterday was not the Consolidated?

A. I did.

Q. So, this is coke which comes from another company?

1824 A. It is

Q. Other than the complainant?

A. It is.

Q. Is all the coke from the Astoria plant received at this place for shipment?

A. I judge not.

Q. Is it being used right along now for the receipt of coke from the Astoria plant?

A. It is.

Q. So that this coke handling equipment is for handling the coke from the Astoria plant? 1825

A. It is.

Q. Now, the coke storage bins, are they the same, for the storing of coke from the Astoria plant?

A. That is correct.

Q. And the bridge extending across Pleasant Avenue is also used in connection with this coke from the Astoria plant?

A. That is correct. That applies to all the appliances and structures I have mentioned in this immediate connection.

Q. So that the entire easterly end of Block No. 1704, also Block 1712, is used in connection with the handling of the coke from the Astoria plant? 1826

A. Yes, with respect to the structures, not the land.

Q. What is the easterly part of the land used for?

A. On the north side of Block 1704, just west of Pleasant Avenue, there is a reserve coal storage pertaining to the 99th Street station.

Q. How large is that?

A. I don't recall just how much coal they have got there now, but in the spring they had a pile of coal there which extended toward the west fully 100 feet. 1827

Q. You mean it is just thrown there in a corner of the lot?

A. Oh no, it was stacked up, it has been put in by staging.

Q. No covered bins or anything?

A. No. It was anthracite.

Q. Just stored in the open?

A. Yes, it had been stacked up by staging.

1828 Q. It could just as well be put somewhere else on the block except the easterly end, could it not?

A. Not otherwise used or occupied, yes.

By the Master:

Q. Was there other space there not otherwise used or occupied?

A. Used for storage. You could have shifted——

By Mr. Chambers:

Q. No, the Court asked you if there was other space available?

A. Yes.

Q. Then the entire easterly end of this block No. 1704, and the whole of Block No. 1712, shown
1829 on Sheet No. 13 of Exhibit No. 178, Lot 2, is used in handling the coke from the Astoria plants, with the exception of this pile of coal in a corner of the block which you have testified to, all of it is for the handling of the coke from the Astoria plant?

A. And with the exception of other materials being unloaded at the bulkhead on Block No. 1712 for the Consolidated Gas Company, such as cast iron pipe and fittings going to this uptown district of the street department.

Q. They are unloaded there sometimes?

A. They are.

1830 Q. How often?

A. That is a difficult question to answer. We might have some main construction work under way that would result in frequent use, and at other times the uses might be infrequent.

Mr. O'Brien: I move to strike out the answer from the word, "We might have".

The Master: Motion denied and exception.

Mr. Chambers: I join in the motion.

Q. Now, I ask you if you know the fact, how 1831
frequently it is used.

A. Only in a general way, Mr. Chambers.

Q. You don't know how often they land their boats there with fittings, do you?

A. No.

Q. Now, is there anything else on the easterly end of that block No. 1704, and Block No. 1712, that is used for anything of the Consolidated Gas Company?

A. That is used for anything of the Consolidated?

Q. Anything connected with the Consolidated.

A. The storage area that I referred to in the 1832
middle of the block.

Q. We have been over that, haven't we?

A. On direct testimony.

Q. What about that?

A. In the middle of the block, and east of the emergency wagon house is a storage yard used by the uptown district of the department of mains and services for the storage of their shoring timbers.

Q. That is in the center of the block. I was speaking of the easterly end.

A. On the easterly end, on the north side of 1833
110th street, about 100 feet west of Pleasant avenue, is a one-story office building.

Q. What is that used for?

A. In connection with the merchandising of coke.

Q. Yes. Now, that is used in connection with the coke of the Astoria plant?

A. It is.

1834 Q. Well, now, I was trying to persuade you to tell me if there is anything else on the easterly end of that block, the easterly half.

The Master: No, you had better not say the easterly half. Say the easterly end of the block.

Q. The easterly end of block No. 1712, lot No. 2, that is used by the Consolidated, and you have told me about the storage of coal in the open up in the corner?

A. Yes.

Q. And you have told me about the use occasionally of the dock for the receipt of iron pipe.

1835 Now, is that all?

A. That is all.

Q. All the rest of it is used to receive and take care of the coke from the Astoria plant?

A. It is, as stated in my testimony.

Q. Well, what do you mean by as stated in your testimony? It is, isn't it?

A. I mean the details of such employment as I have stated in my testimony.

Q. I don't exactly understand what you mean by that reservation. It is used to take care of the coke from the Astoria plant, isn't it?

1836 A. Are you asking me what I mean by that statement that seemed to be a reservation?

Q. I am asking you for the fact.

A. I have given you the fact.

Q. The fact is that all of it except the two reservations you have made is used to take care of the coke from the Astoria plant?

A. All of the property that I have described is so used.

The Master: I think we have that pretty clear.

Q. How far from Pleasant avenue in block 1704, westerly, would be taken up with this use for the coke from the Astoria plant, how far west in the block? 1837

A. That is indeterminate. It would not be as far west as you show.

Q. Might it not be one-half?

A. Oh, no, it never was one-half.

Q. Why not half; just because it is the coke—why not half of the block?

A. Because I have never seen or known them to have enough coke stored there to extend that far.

Q. Then if they had more coke, it would be?

A. It would be if they had that much coke. 1838

Q. It could just as well be half the block devoted to the coke business as less than one-half?

Mr. Ransom: I object to that question as indefinite.

The Master: I think the question is objectionable. It might be the whole block if they had enough coke.

Mr. Ransom: It might be the whole island of Manhattan.

Q. Why did you put it in pink then, if it is used to take care of the coke from the Astoria plant, which is not the complainant? 1839

A. Because the property belongs to the Consolidated Gas Company, the complainant in this case, and these intercorporate matters are beyond my sphere of knowledge. I have shown this as property of which they have some use.

Q. Are they using it when they handle this coke, I mean the complainant company?

The Master: I will not allow that, Mr. Chambers, because it is purely argumentative.

1840 Mr. Chambers: No, it is a question of fact.

The Master: No, it is not. The fact is as the witness has testified, that it is used for handling the coke of the Astoria Lighting Company.

Mr. Chambers: Now, what I would like to know, is that a use of the——

The Master: In his opinion it is a use of the Gas Company.

Mr. Chambers: Now, I am asking if that is the complainant, the National Coal & Coke Company, if he knows——

1841 The Master: As I understand it, his understanding is that it is an entirely separate corporation.

The Witness: It is a corporation.

By the Master:

Q. It is not the Consolidated Gas Company?

A. I don't know who owns the stock.

Mr. Chambers: That may appear later, I know, that is, I think I know.

The Master: We are not getting anywhere in getting the views of the witness. I am here to determine the facts.

By Mr. Chambers:

1842 Q. Who uses that easterly end of the block, the National Coal & Coke Company, not the Consolidated Gas Company, in the handling of the coke?

A. The National Coal & Coke Company do the merchandising, but I don't know the difference between the operations and the handling; I don't know who handles the coke in the bins, whose employees they are. It is our men that handle the coal stored there.

The Master: I think the record is perfectly clear that this particular piece of property is used for purposes other than the manufacture of gas, as far as the testimony of this witness goes. 1843

Mr. Ransom: Unquestionably in part, and the revenues of the company show it, it is so treated.

Q. Is what you said a moment ago true, that wherever, of all these seventeen pieces of property spread over the City, to which the title is in the Consolidated Gas Company, and you knew that the Consolidated Company used some little corner of it, or a portion of it, that then you put it all in pink? 1844

Mr. Ransom: I object to the question as leading and argumentative.

The Master: I will let him answer that.

A. I do not recognize anything in that that I said a moment ago.

Q. Well, is that true?

A. That I said that a moment ago, no.

Q. Is it true that you did put in pink that property, if the Consolidated used some little corner or portion of it?

A. No, it is not true with reference to Lot No. 1 in Block No. 978. I testified expressly that the ground floor of the building in those premises was occupied by the company's carpenter shop. 1845

The Master: I don't think the witness understands the question, and I don't think the question is at all important. The fact speaks for itself.

Mr. O'Brien: As I understand it, he used

1846 this Lydia Pinkham color just wherever the have title to the land.

By Mr. O'Brien:

Q. Isn't that so?

The Master: Don't answer the question.

Mr. O'Brien: He used the word "property a minute ago.

The Master: The fact is, Mr. O'Brien, th he has prepared a map with reference to whic he has testified, and it appears clearly fro the evidence that in some instances he h colored in pink property which is not us exclusively for gas purposes. Now, I dra

1847 my own inferences. What is the use of arg ing with the witness about it.

By Mr. Chambers:

Q. Now, the little one story brick building y spoke of east of Pleasant Avenue, on the north si of 110th Street, is occupied entirely by the sal office of the coke and coal company, it is not?

A. It is, as far as I know.

Q. Nobody else has anything to do with th building?

A. I don't know. Their sales agency is esta lished there. That is what you want to kno

1848 isn't it?

Q. Now, lot No. 2, Block No. 1712, that is th flat-iron shaped piece of property——

The Master: That is the property that used for coke.

Q. You spoke of a one story building. That used entirely by the coke company, is it?

A. Which folio is that?

Q. That is at the bottom of page 289, folio 86

A. That is referring to lot 18 in block 1683. 1849
That is on Sheet 12.

Q. Oh, you referred to that?

A. Yes.

Q. Have you given me all the structures now that are on Block 1712, lot No. 2?

A. I have.

Q. And nothing on there is used by the Consolidated Gas Company except occasionally to receive——

The Master: I will not permit that question. We have been over that.

Q. Is there anything else on there used by the Consolidated? 1850

The Master: He has answered that. He said no.

Mr. Chambers: Are you sure, your Honor there isn't something else, I don't know.

The Master: If you have any doubt about it let us have it clear.

By the Master:

Q. Is there anything else on block No. 1712?

A. Used by the Consolidated Gas Company—nothing else.

By Mr. Chambers:

Q. Then counsel directed your attention next 1851
to lot 18. When was this one story building built? I am right down at the bottom of page 289?

A. I don't know.

Q. Was it there when you entered the service of the company?

A. It was.

Q. What is the size of that building, that one

1852 story building, what is the area that it occupies, the floor area?

A. I think it is about seventy feet long and forty feet wide. Its length is east and west. It stands on the rear of the lot.

Q. And what is the material of which it is made?

A. It is a brick building.

Q. What kind of a roof?

A. I don't remember the roof material; I think it is slate.

Q. Now, that is a school, you said?

A. No, I said that that was a——

1853 Q. You said school of instruction, right up at the top of page 290?

A. This building is the building across the westerly end of the lot, I see. The building I was describing as seventy feet long and forty feet wide is the one referred to at folio 869.

Q. Well, what is this building referred to at the bottom of page 289, folio 867?

A. That is the building across the westerly end of the lot extending north and south, and was built during the time of my employment by the company.

Q. What year?

1854 A. About 1909.

Q. Now, we are speaking of the school of instruction building?

A. Yes, a portion of the building being used for that purpose.

Q. Teaching employees of the company in regard to the mains and services?

A. Yes.

Q. The employees of no other companies?

A. No.

1855

Q. You are sure about that?

A. I am quite sure. It is confined to the employees of the street department of the Consolidated Gas Company.

Q. Now, the open yard just east is used for that purpose, is it?

A. A portion of the yard is used for the school of instruction, yes.

Q. What is that?

A. A portion of that open yard is occupied by the equipment of the school of instruction.

Q. Now, is this school of instruction maintained by the Consolidated Gas Company?

1856

A. It is; it is a departmental matter.

Q. Now, the two-story building you spoke of used for storage. I am down to folio 869.

A. Yes, that is the building that I described.

Q. That was there before you went into the service of the company?

A. It was.

Q. Whose pipes and fittings are stored there?

A. The Consolidated Gas Company.

Q. No other companies?

A. No other companies.

Q. Now, the department of mains and services there, or that portion of it which is used by the department of mains and services, do you know whether work is done from there on the mains and services of other companies, other than the Consolidated?

1857

A. I do not know of such work.

Q. Now, is it not a fact that the Standard Gaslight Corporation, Standard Gaslight Company, oc-

1858 cupies some portion of this property shown on sheet No. 12?

A. The Standard Gaslight Company is the owner of lot No. 1, block No. 1704, which is the property on the east side of First Avenue, extending from 110th to 111th street, and 107 feet back therefrom.

Q. You mean reaching into the pink?

A. No. The map shows 107 feet of unshaded area.

Q. Is it not a fact that the Standard Company use some of this property shown in pink?

A. No.

Q. Block 1704, lot No. 5?

1859 A. Not to my knowledge. They have their own garage in the building.

Q. You say not to your knowledge, they don't use any of this property shown in pink?

A. Not to my knowledge.

Q. You don't say "no"; you say, "not to my knowledge."

A. Not to my knowledge.

Q. How about block 1682?

A. There is no other use of that property or occupancy other than by the complainant.

Q. Not by the Standard?

1860 A. No, sir.

Q. How about lot No. 18 in block 1863?

A. No other uses by any other company other than the complainant.

By Mr. O'Brien:

Q. You say that subject to your former testimony as to the whole of it being used?

The Master: I direct the witness not to answer.

Q. Now, folio 869, you were asked what improve- 1861
ments were located on lots 50, 53, 54, 55 and 56 of block 1998, what use is made by the Consolidated Gas Company. Now, the engine exhauster on lot 50, and a portion of lot 53, when was that built?

A. Pardon me, that should read "engine and exhauster".

Q. All right. When was the engine and exhauster installed that you speak of there?

A. The first construction of the building and equipment was in 1906, 1905 or 1906, and the exhauster house was afterward extended in 1914 or 1915, as I remember it. I have no memorandum of these facts with me. I am giving you my best 1862
recollection on that.

Q. When was the exhauster put in?

A. The first exhauster was put in in 1906, and the second one at the time of this later extension. That was the purpose of it.

Q. When was that?

A. In 1914, or 1915, as I recall. There are two exhausters and two engines.

Q. When was the building built?

A. As I say, the building was originally built in 1905 and 1906, and later extended in 1914 or 1915.

Q. What is its size, speaking of the building? 1863

A. I have no memorandum before me giving its dimensions, but I assume it is about 75 feet long on 132nd street and about 60 feet north and south.

Q. Now, the governor house, when was that erected?

A. That is the governor house, the engine and exhauster and governor house.

Q. That is all one building?

1864 A. It is all one building. There is a boiler house adjacent to it.

Q. Then when you spoke of it on your direct examination, you did not mean to make more than one building out of it?

A. I did not. The stenographer omitted the word "and".

Q. The boiler house, is that the same building?

A. No, that is a separate building adjacent to it.

Q. Was that there when you entered the service of the company?

A. Oh, no.

Q. When was it built?

1865 A. In 1905 or 1906.

Q. And in it is a boiler?

A. There are three boilers.

Q. When were they installed?

A. 1906.

Q. Were they new?

A. Brand new.

Q. And have been used since?

A. They have.

The Master: You mean ever since, don't you, Mr. Chambers?

Q. Ever since?

1866 A. Yes.

Q. Is that true of the engine, exhauster and governor?

A. It is.

Q. Now, these two Buckeye engines in the engine and exhauster house, you have told me about those?

A. I did.

Q. Those are the two you told me about?

A. Yes.

1867

Q. The valves, piping and other equipment in regard to the exhausters and Buckeye engines were installed at the same time as the engine, were they?

A. There has been some extension work done there at various dates. The main part of the connections in that governor house—you are referring to the large gas connections, are you now, Mr. Chambers?

Q. I am referring to what you refer to on your direct. I don't know what it is. It is at folio 870?

A. The feed water pipes, feed water heaters, and piping accessory to the boilers, was put in in 1906.

1868

The valves and piping accessory to the exhauster and governor house was put in first in 1906, and there was an extension of that system at the time the building was extended in 1914 and 1915, and then I have some recollection in the intervening period of our having made a less notable extension of that system of piping.

Q. The coal storage you spoke of, you did not say whether they were bins or buildings, or what. That is at folio 871?

A. Yes.

Q. What are they?

A. It is a retaining fence in the open yard on

1869

lots 53, 54, 55 and 56.

Q. And the coal is stored in the open, is it?

A. It is, except so far as these fences prevent it from spreading all over the ground.

Q. Have you covered everything now that is on these lots 50, 53, 54, 55 and 56 of block 1998?

A. The brick chimney which pertains to the boilers in the boiler house.

1870 Q. You did not speak of that on your direct?

A. Well, I had no memorandum there and I may have overlooked it.

Q. When was that built?

A. In 1906—a radio brick chimney.

Q. All of this plant and equipment you have been describing was built since you have been with the company?

A. Absolutely every bit of it.

Q. Did you design any of it?

A. Very much of it.

Q. And did you know the cost at one time?

A. Every penny of it.

1871 Q. You do not know it now?

A. No, I do not carry the company's books of account in my mind.

Q. Who was the contractor, do you remember?

A. The contractor for the building was the Louis Webber Construction Company.

Q. A New York concern?

A. Yes.

Q. And the other one, the chimney, I suppose was built by the——

A. I think the N. C. Kellogg Company built the chimney. I may be wrong, but it is my best

1872 recollection that Kellogg built the chimney.

Q. Tell us who built some of the other portions, or the rest of the building?

A. The structural steel work of the roof and the floor frame and the floor plates in the original portion of the exhauster house and the boiler house were fabricated and erected by the old firm of Milliken Brothers. The extension to the governor house which I have described as having been made

in 1914 and 1915 was built by Richard Deeves & 1873
Sons. The machinery, the first exhauster put in, is a Roots exhauster of 120 cubic feet displacement and the second one is a Connorsville of 100 cubic feet displacement. Both the engines are Buckeye engines. The piping was put in by our own construction force, the large piping and valves. I do not recall what contractors furnished the pipe and fittings. The valves, the large gas valves, that is, were all furnished by the Isbell-Porter Company.

Q. Was this erected at the time the case was tried before?

A. It was. It was up.

The Master: Do you mean by that was the 1874
cost of these improvements included in the estimate of the previous case; is that what you mean?

Mr. Chambers: I suppose it will be if it was a part. I do not know whether we tried the case on the cost theory before.

The Master: What I mean by that is whether the costs were included in the consideration of the previous case, if he knows.

Mr. Chambers: Do you remember? They must have been.

The Master: No, they must not have been. 1875

Q. Do you know whether they were included in the appraisement before?

A. I think they were.

The Master: Of course, his testimony is not very reliable on that. The record itself is the best evidence.

Mr. Chambers: I better not go into that. I withdraw the question.

1876 The Master: The question is withdrawn and the answer stricken out.

Q. The holder, when was that erected, the holder which is on lot 1, block 1999.

A. In 1905 and 1906.

Q. Who built the holder?

A. The Bartlett-Hayward Company of Baltimore, built the holder upon foundations constructed by another contractor.

Q. Have you described the part that the Consolidated Company took in the erection of this plant here, or this equipment?

The Master: Where?

1877 Mr. Chambers: The holder and the boiler house and these other things we have been talking about. You spoke of just one part that the company took, but farmed or let out the rest.

A. Well, we designed everything there in the fullest detail; that is, there was no architect for the building. We designed the building and the structural steel work in our own engineering department.

Q. Who designed the holder?

A. The Bartlett-Hayward Company.

1878 Q. That holder has been used——

A. That is, they designed it principally. We always participated in the design of such structures.

Q. The holder is in use now, is it?

A. It is.

Q. What district of the company is that in—of these districts?

A. It is in respect of the department of mains and services in the uptown district. In respect of

the commercial department it is in the fifth district. These districts are not coterminus. 1879

Q. Where is the gas main that enters that holder, do you know?

A. I do not know.

Q. Where does it go to from the holder; do you know that?

A. Only in a general way that that supplies that uptown district, Washington Heights, up the hill there.

Q. All the companies, does it not?

A. Yes.

Q. Or most of the companies?

A. There is only one company up there. 1880

Q. The other companies do not operate in that territory?

A. There is only one company up the hill there and that is the Consolidated Gas Company.

Q. I say the other companies do not operate on the hill there?

A. They have no consumers up there to my knowledge.

Q. Does the gas go to the Bronx from that holder?

A. It could. Whether it does or not, I do not know. I have referred to it being connected with 1881 Kingsbridge.

Q. I take it that this holder and this equipment on these other lots shown on Sheet 3 was because the business of the company increased—was prompted by the increase in business, was it?

A. I do not know the executive motives.

Q. Will you turn to Sheet 14. That is the property on East 114th Street and Third Avenue?

1882 A. I have it.

Q. Do you find the place in the testimony where you spoke of that? We do not.

A. I made an effort to find it there in a few minutes on direct.

The Master: It was in the early part of the direct, Mr. Chambers.

Mr. Chambers: Beg pardon?

The Master: I think it was in the early part of the direct. I know Judge Ransom did not follow from sheet to sheet consecutively. What is the block number?

Mr. Chambers: The block number is 1642.

1883 The Master: Ask the questions as to what is there; that is the quickest way.

Q. What is on lot 32, what buildings?

A. A building which is in part one story high, in part two stories and part three stories, which houses the clerical staff of Branch 6 of the commercial department. There are also desks there. There is a bank partition on the ground floor, and there are windows there where the consumers make applications, rent appliances, pay bills, and things of that kind.

Q. When was that three story building erected,

1884 do you know?

A. I don't remember.

Q. Was it there when you went into the service of the company?

A. I think it was built just about the time I came with the company, but it has been entirely reconstructed inside since then.

Q. When? Do you know what year that was done?

A. That reconstruction? 1885

Q. Yes.

The Master: That is page 235, Mr. Chambers.

Mr. Chambers: Folio 707.

A. That has been so spread out, Mr. Chambers, that I could hardly fix the year, but it was subsequent to 1908.

Q. How large a building is that three-story building on lot 33?

A. Fifty feet five inches wide and 100 feet 11 inches deep. It conforms to lot 32 shown by sheet 14.

Q. Is the show room in that building, or is it in the other building? 1886

A. The show room is in the building on lot 33.

Q. Which floor, then, is occupied by the sale of appliances?

A. The ground floor.

Q. Any of the other floors?

A. Of the building on lot 33?

Q. Yes.

A. No.

Q. What is the second floor used for?

A. Of the corner building on lot 33?

Q. Yes. 1887

A. The clerical staff.

Q. Of this company only?

A. Of this company only.

Q. And the top floor, the third floor?

A. The third floor I think the janitor of the branch has his headquarters there.

Q. And now the building on Lot 32, when was that built, if you know?

1888 A. You asked me about the building on lot 32.

The Master: Answer it again.

Q. No, I have been talking all the while about the building on lot 33, the three story building?

A. I understood you were asking me about lot 32. Your first questions. I have answered in respect to lot 32.

Q. All these answers, then, relate to lot 32?

A. Until you began asking me about the show room, which I stated was on the ground floor of the building on lot 33. I think the record shows you asked about 32.

Q. When was the building on lot 32 erected?

1889 A. Just after I entered the employe of the company, as I now remember, but I stated that it had since been——

Q. When was the building on lot 33 erected?

A. I do not know.

Q. That was before your time?

A. Yes.

Q. That is a three-story building on lot 33?

A. It is.

Q. And the one on lot 32 is partly one story and partly two and partly three?

A. Correct.

1890 Q. What is that used for, the building on lot 33?

A. The ground floor is open, in full communication with the building on lot 32, and the larger part of the floor is a show room for gas appliances and fixtures. There is a bank partition there and the clerks that meet the public are on that floor where consumers apply for service and pay gas bills.

Q. What is the second floor of the building on lot 33 used for? 1891

A. Clerical force.

Q. And the top floor, is that where the janitor is?

A. He has his headquarters there, yes.

Q. The building on lot 32, what is the ground floor of that used for?

A. I have already described that as being the clerical staff. The superintendent has his office there in the rear and his assistants have their desks, and there is a bank partition there, as I have already described a few moments ago, where the consumers make application for service and pay bills. 1892

The Master: The witness' testimony, as I understand it, Mr. Chambers, is that the ground or first floor of the two buildings are open to each other and constitute one main floor; is that right?

The Witness: That is correct.

Q. You better take office sheet 16, the property on 132nd street and Locust avenue. You will find your testimony about that at folio 873. The brick building you spoke of at folio 874 on that property, when was that erected, do you know? That is at the top of page 292. 1893

A. In 1910 or 1911.

Q. Was it a new building?

A. It was.

Q. That is a testing station to test the gas from the Astoria plant, isn't it?

A. To test the gas there at the tunnel.

Q. Well, it comes from the Astoria plant?

A. It does.

1894 Q. That is the Astoria tunnel?

A. It is so-called.

Q. So that really is a testing station for the Astoria Company?

A. No, it is operated by the Consolidated Gas Company.

Q. It is the testing of the gas of the Astoria Company, is it not?

A. But that involves the question of what the Consolidated Gas Company is doing in its own business.

Mr. Chambers: Read the question.

Q. (Repeated.)

1895 A. No, it is a testing station of the Consolidated Company.

Q. And it tests the gas of the Astoria Company?

The Master: You mean that comes from the Astoria plant.

A. It does.

Q. What else is west of the tunnel which is shown in the enclave, as you call it, unshaded?

A. No structures.

Q. Idle property—vacant, idle property?

A. No, it is not idle. We have used it for the storage of large, cast iron pipe.

1896 Q. Large cast iron pipe?

A. Yes.

Q. Used in connection with the tunnel or what?

A. Some of our construction work in the streets there.

Q. Well, some for the tunnel too?

A. There was some of the tunnel pipe stored on the east end during the construction of the tunnel.

Q. What is it now used for?

A. That land? 1897

Q. Yes.

A. For storage.

Q. What companies?

A. The Consolidated.

Q. The Consolidated only?

A. I have no knowledge of any other company storing materials there.

Q. How much of it is occupied by storage, speaking of lot 360 west of the tunnel?

A. As of to-day?

Q. Yes.

A. I don't know.

Q. When did you last see it? 1898

A. Not in some months.

Q. There was some pipes on there then, you think?

A. I recall some on the westerly portion, and there was some scrap materials stored on the easterly portion at that time.

Q. The testing station occupies only a little corner?

A. On the north side of 132nd street, just west of the enclave.

Q. Down in there (indicating on exhibit)?

A. Yes. 1899

Q. Where did you say you saw the last time you were there some pipe stored?

A. Over here (indicating).

The Master: That means over to the westerly end of the plot?

The Witness: Yes, toward Locust avenue.

Q. What else?

1900 A. Then there is some scrap material stored down here.

The Master: The easterly end of the plot?

The Witness: Yes.

Q. The rest of it was unoccupied?

A. Unoccupied, yes.

Q. Very much?

A. No. You mean very much pipe or very much scrap material now?

Q. It could be stored somewhere else, could it not?

A. That would be a question of convenience.

1901 Q. Where are there any large mains of the company there except the tunnel.

A. In 132nd Street.

Q. On lot 360 have you given me all? You said there was nothing on the easterly end, east of the tunnel, the insert there. You said you saw some pipes stored on the easterly end.

A. I did not; I said the pipe was stored on the westerly end and the scrap material in the east.

Q. Well, the scrap material, but isn't some part of that easterly end of that lot and block occupied by tenement houses in which the company's employees live?

1902 A. It is not.

Q. You are sure about that?

A. I am sure. 2583, Lot 360?

Q. Yes.

A. There is no building on that property except the testing station already described. There is a ferry house at the foot of the street that may fool somebody.

Q. A ferry house?

A. A ferry house. 1903

Q. Is there a dock there? Does the company use the East River there for docking purposes?

A. We have used it, yes. If we brought pipe there we would bring it to the dock.

Q. Does the Consolidated Gas Company supply any consumers in the Bronx that you know of?

A. Not that I know of.

Q. Can you explain to the Court why it is that the Consolidated have anything to do at all with the piece of property here up in the Bronx where it is located? You see where it is, way over here (indicating on exhibit)?

A. Yes. No, I cannot explain to the Court. That 1904
is an intercorporate matter of which I know nothing.

The Master: What property is that that you refer to in the Bronx, Mr. Chambers?

Mr. Chambers: This is in the Bronx.

The Master: I mean on one of these sheets, of Exhibit 178?

Mr. Chambers: Here it is way off here (indicating). It is the tunnel from the Astoria plant. I was trying to find out why it was that they had it away up here.

The Master: I see.

Mr. Chambers: You can see the point, I 1905
think. It is another company.

Mr. Ransom: It is where they test gas, too.

Mr. Chambers: What is that?

Mr. Ransom: It is where they test gas from Astoria.

Mr. Chambers: You disclaimed that was your company yesterday.

Mr. Ransom: That statement that was fur-

1906 nished shows that we buy gas from them. There is nothing mysterious or academic about that.

Mr. O'Brien: Is that going to be the proof may I ask counsel, to purchase gas from the Astoria Company?

Mr. Ransom: The statements which were furnished to you many months ago show that we buy gas, from whom we buy it and what we pay for it, and that is shown by the records of the Public Service Commission, and its reports from year to year. There is nothing new or novel or mysterious about it.

1907 Mr. O'Brien: Why were you hurt when there was something said about the Consolidated completely owning the Astoria Company, then?

Mr. Ransom: There is nothing in it that would hurt me.

The Master: Proceed, Mr. Chambers.

Q. Have I covered all or everything you know about this block 2583 so far as structures are concerned?

A. There is a fence enclosing the property except on the river end, and there there is a bulkhead, a bulkhead structure.

1908 Q. What kind of a fence is this?

A. Board fence.

Q. You said that you do not know of any mains of the Consolidated Company or services in the Bronx where this land is located; do you?

A. The Consolidated Company has a forty-eight inch main in 132nd and 134th Streets.

Q. Whereabouts in 132nd Street?

A. It runs from these premises westward.

Q. Where to? 1909

A. The Kingsbridge holder at Sedgwick Avenue and Fordham Road.

Q. That is that holder way up at Fordham Road?

A. At the 242nd Street bridge.

Q. You have a main runs up there?

A. Yes.

Q. How do you know that is the Consolidated main?

A. I know when it was constructed. I had some contact with the work through the construction of the Kingsbridge station. It ties in to 111th Street, too.

Q. Does gas from this testing and tunnel station go over to the 111th Street holder? 1910

A. I do now know. I was describing the physical connection. What the gas does I don't know.

Q. Does it connect it up with the 111th Street holder?

A. This forty-eight inch main connects with the forty-eight inch main that goes up First Avenue from the 111th Street holders.

Q. Turn to Sheet 17.

The Master: Ask him what is on there, Mr. Chambers. I tried to locate it.

Q. What is on lot 23, block 2108, Sheet 17 of Exhibit 178? 1911

A. That is occupied by a brick building which is the headquarters of the meter and fitting department for the uptown district.

Mr. Ransom: That is page 292.

Q. Look at folio 874. Now, the brick building you spoke of was erected when, do you know?

A. I do not know.

1912 Q. Was it there when you went into the service of the company?

A. I don't think so.

Q. Well, why is it you do not know about that building?

A. Because we did not own the property at that time.

Q. When did you buy it, do you know?

A. In 1908 or 1909. I have no memorandum before me.

Q. How many stories is it?

A. Four.

Q. And what is the first ground floor occupied
1913 by?

A. The ground floor is where they handle the meters and appliances going in and out. There is also a receiving clerk's office enclosure there.

Q. The first floor above the ground floor now.

A. That is where the district superintendent and his assistants have their offices, along 159th street near the north front of the building, and the machine shop is in the rear of that floor, and then there are desks there for the workmen to make out their report slips.

Q. The next floor.

1914 A. The next floor is where the incoming and outgoing appliances are placed.

Q. You mean appliances like gas stoves?

A. Principally domestic ranges.

Q. Now, the next floor?

A. That is where they clean ranges and repair them.

Q. And the next floor?

A. That is the floor.

Q. You mean where they clean these ranges that 1915
the Company sells to the consumers?

A. And rents, yes.

Q. The next floor.

A. I described the floor.

Q. That is all? You described them?

A. That is all. We rebuilt the inside of that building after we bought it.

Q. What year did you do that?

A. Immediately after we bought it in 1909.

Q. Are there any meters or fittings handled in this building, of other companies?

A. There are not.

Q. Is there anything else, any other structures 1916
other than this four-story building on lot 23, block 2108?

A. That building occupies the entire area.

Q. Now take the sheet 18, which is the Fordham Road property. On that property is a gas storage holder. When was that erected?

A. In 1911 and 1912.

Q. Prior to that did you have any holder up in that locality?

A. No.

Q. When was this brick building erected that was there? 1917

A. At the same time the holder was built.

Q. What is the size of that building, do you know, the brick building?

A. I have no memorandum or drawing before me. I would not want to undertake to estimate the dimensions.

Q. Did you design it?

A. I had a great deal to do with designing it,

the foundations and the structural steel work of the building.

Q. Who designed the holder?

A. Myself, in connection with the engineers of the Bartlett-Hayward Company.

Q. That is the Baltimore concern?

A. It is.

Q. Who built the holder?

A. The Bartlett-Hayward Company.

Q. Who built the foundation for it?

A. Thomas Crimmins, is my recollection.

Q. Who had the contract for the brick building?

A. Richard Deeves.

Q. The entire building did he erect, or were there other contractors?

A. He erected the building property, subletting the steel work to Levering & Garrigues.

Q. And now, the two vertical engines, when did you install those?

A. At the same time that the building was built.

Q. What kind of engines are they, do you know?

A. Buckeye vertical engines.

Q. Have they been used continuously ever since?

A. They have.

Q. How about the two exhausters, put in at the same time as the engines?

A. They were.

Q. And been used continuously since?

A. They have.

Q. The three Babcock & Wilcox boilers, were they installed at the same time as the vertical engines?

A. They were.

Q. And have they been used continuously ever since? 1921

A. They have.

Q. You spoke of numerous accessory appliances. What did you mean by that term?

A. There is a gas booster.

Q. When was that put in, the same time?

A. We are just putting it in; it is not entirely complete.

Q. You are installing it now?

A. Yes.

Q. What do you mean by that "gas booster"?

A. Booster, yes.

Q. What do you mean by that? 1922

A. Why, a booster is an exhauster used in assisting the pressure on a distribution line, which is a different thing from pumping on a transmission line.

Q. It has nothing to do with the raise in the price of gas, has it; it has nothing to do with that kind of a boost?

A. Well, that is a question of law; that lies beyond my sphere of knowledge.

Q. These feed water pumps, were they installed at the same time that the Babcock & Willcox boilers were put in? 1923

A. They were.

Q. The valves and the piping, was that work all done at that time? That is at folio 876.

A. The valves and piping accessory to the boilers were put in at that time, yes.

Q. Where does the gas come from that supplies this holder?

A. Through the 48 inch line.

1924 Q. And that comes from this Astoria plant?

A. It comes from those premises in East 132nd Street.

Q. And in turn goes to 132nd street and Locust avenue premises from the Astoria plant?

A. Yes.

Q. It goes through the tunnel to the 132nd street testing tunnel station, then up to this holder?

A. That is what it can do. What is done I am not familiar with.

Q. And you do not know just how it goes or where the gas comes from that gets into that holder?

A. No, because we have two lines that cross
1925 Harlem river to Manhattan, and it can also come that way.

Q. What other plant would it come from if it came the other way?

A. Why, that line connects down Broadway to West 132nd street.

Q. What plant could it come from if it traveled up through the 132nd Street holder on the west side?

A. I don't know.

Q. Where does the gas go from this holder on the Fordham Road property?

1926 A. I don't know.

Q. This is a very large piece of property?

A. Yes, sir.

Q. It looks like it. Does that line crossing there fairly represent the portion of the property that is occupied by the holder and the building you have described (indicating on exhibit)?

A. You mean and in general necessary thereto?

Q. Yes.

A. I should say it does fairly well. 1927

Q. Will you just put your initials right on that line?

A. (Witness complies.)

Mr. Chambers: I ask that that be marked for identification.

Marked Defendant's Exhibit C for identification.

Q. What is on this vast area east of that line, around this property east of that line?

A. A pile of rocks and some briars.

Q. How much land would you say was north of that line? 1928

A. North of that line?

Q. How many acres?

A. I do not know it in acres. 250,000 square feet.

By the Master:

Q. North of the line?

A. North of the line.

Q. How much south of the line?

A. 215,000 square feet. Do you want me to locate the line?

By Mr. Chambers:

Q. Yes, if you will, please. I might ask you this: That line upon which you put your initials, that is 1929 a liberal one; couldn't that line be a little nearer the holder?

The Master: I think the witness is going to give us the exact dimension along the street.

By the Master:

Q. You have indicated on this sheet which is marked Exhibit C for Identification a line running perpendicularly to Fordham Road?

1930 A. Fordham Road.

Q. And at right angles to it, is it?

A. I should describe the line as approximately parallel to the Harlem River Terrace.

Q. And you show the line that divides the property in occupancy from the vacant land as 480 feet north of Fordham Road?

A. I do.

Q. Do you know the distance from that line to the northerly end of the property?

A. I do not.

Q. In a straight line?

A. The property being irregular in form, I do
1931 not know that distance.

Q. But a straight line from Fordham Road alongside of the part in occupancy is 480 feet?

A. Yes, sir.

Q. Is there a fence of some kind on that northerly line, the occupied part?

A. Yes, sir, a kind of a fence. A woven wire fence.

Mr. O'Brien: They do not suffer from gangdom up there?

Q. Are their fences likewise around the other parts of the property, the occupied part?

1932 A. There is along Harlem River Terrace, and an iron pipe fence along Fordham Road and up around on Sedgwick Avenue.

By Mr. Chambers:

Q. Is this Fordham Road holder which we have been talking about——

A. The Kingsbridge holder we call it.

Q. Is that connected up with mains in the Bronx?

A. The forty-eight inch main that I have described. 1933

The Master: As going from the tester.

Q. Well, this holder then supplies or is connected up with mains which reach out and supply the consumers in the Bronx?

A. I do not know anything about the connections off of that forty-eight inch line. I should say there are not any.

Q. Where do the mains run from the holder?

Mr. O'Brien: Pardon me, your Honor. How are we to take that? You say you do not know, and yet you say there are none.

The Witness: The better statement would be that there is no connection off the forty-eight inch line except at its terminii. 1934

Mr. O'Brien: Do you know that?

Q. Where is the terminii of the forty-eight?

A. One end is the holder and the other end is down at 132nd Street and Locust Avenue, and it connects with the forty-eight that runs down to 111th Street, as I have already described.

Q. That is the incoming gas, isn't it?

A. I do not know which way the gas is going; I am telling you the physical connections.

Q. Where does the gas go out that leaves the holder? 1935

A. Out of other pipes.

Q. That goes up in the Bronx, does it not—some of them?

A. I do not know where they go. They go out into Fordham Road there, and my work on those pipe connections ended out in the street. I have not a ghost of an idea where they go.

1936 Q. In which direction were they going——

Mr. O'Brien: What is the rest of the answer about the ghost of an idea?

The Witness: Where they go after they leave the property.

Q. Do you mean after they leave this pink property?

A. Yes.

Q. On this map where is the place that you know about concerning the main, where were they when you left off?

A. Now you mean, outgoing mains?

Q. Yes.

1937 The Master: 2. Describe it so the stenographer can take it on the record, please. You can tell about where.

A. The mains projected southerly from the governor house and into Fordham Road.

The Master: And there your knowledge ended?

The Witness: And there my knowledge of the outgoing mains ended.

Q. How many of those mains were there?

A. I don't recall how many were put in, although there are arches in the foundation of the building

1938 to accommodate more than were put in place. I do not recall.

Q. Were half a dozen put in?

A. I don't think so.

Q. What sizes were they, these outgoing mains—what size mains?

A. I do not recall that, either. The pipe in the building is large pipe, but I do not recall the size of those outgoing pipes.

Q. Who is there in your company that knows about the mains, where they lead to and how they are connected up? 1939

Mr. Ransom: Do you think that is a proper question, your Honor?

The Master: Yes, if he knows.

A. Why, I presume that Mr. George E. Woods would be familiar with it.

Q. Who is there in your company that is best acquainted with where the gas comes from that enters the holder, and where it goes to?

Mr. Ransom: I do not think that is a proper question, as to who is best qualified to pass judgment on that. 1940

The Master: I will take it for what it is worth.

Mr. Chambers: If they do not call him we may want to subpœna him.

A. May the question be read, please?

Mr. Ransom: This is a question that he comment upon the relative quality of the——

The Master: I will sustain the objection.

Q. Not that he comment, but who has charge for the company of entire system of mains and gas in mains in your Company?

A. Mr. George E. Woods is the engineer of manufacture of the Consolidated Gas Company. 1941

Q. Will you turn to sheet 11?

A. I have it.

Q. On block 670, lot 1, you spoke of four holders.

A. Yes, sir.

Q. I understood you to say when you were testifying before, and I think you did say, that those

1942 four holders were located one there, one there, one there and one there (indicating)?

Mr. Ransom: That does not mean in the record.

Mr. Chambers: I am going to make it clear. That is to say two of them were on Second avenue, on the westerly end of this block, and then two were right back of the other two. That is not the way they are located, is it?

The Witness: I think you are trying to describe it properly, Mr. Chambers. The two 600,000 cubic foot holders are on the north side of 98th street just east of Second avenue.

1943 The relief holder is just north of the corner holder, and along Second avenue. The fourth holder is north of 98th street, east of the two holders first described.

Q. That is not the way you have described it yesterday, is it?

A. I may have used different words, but it paints the same picture.

Q. In other words, there are three of them in a row there at 98th street?

A. Correct.

The Master: Three of them in a row on 98th

1944 street, Mr. Alrich?

The Witness: Yes, sir.

Q. They are just like this, 1, 2, 3—and the relief holder is up——

A. On Second avenue.

Q. The holder farthest east of the three on 98th street, is that in use?

A. It is.

Q. When did you last see it?

A. Within a couple of weeks. 1945

Q. Would you say it was in use to-day, yesterday and to-day?

A. It would.

Q. Is it in condition to be used?

A. It is.

Q. Have the guide frames been removed?

A. It has.

Q. Completely?

A. The guide frame has been removed.

Q. Completely?

A. Completely.

Q. And you say with the guide frames removed completely, it is in condition to be used? 1946

A. It is.

Q. When did you take away the guide frame?

A. Several years ago.

Q. Then the guide frames are not necessary?

A. For the use to which it is put.

Q. Well, what use is this holder put to except to hold gas?

A. It is being used for the storage of gas oil.

Q. When you are speaking about the use of it, it is not used to hold gas?

A. No, it is used to hold gas oil.

Q. That is a by-product? 1947

A. It is not. It is a material manufactured.

The Master: Drip oil, as I understand it, is the by-product.

Mr. Chambers: Oh, I hear a great chorus of laughter from the other side.

By the Master:

Q. Is that correct?

1948 A. That is correct; the drip oil is the by-product.

Mr. Ransom: It is funny——

Mr. Chambers: It is funny too that he led us to believe this held gas yesterday.

The Witness: I led you to believe nothing. I answered your question.

By Mr. Chambers:

Q. Then it is not used to hold gas at all?

A. It is not.

Q. And as a gas holder it has been abandoned, has it?

A. I would not say it has been abandoned; the shells are good.

1949 Q. The guys have been taken down?

A. Yes, but the shells are good.

Q. Is it usable as a gas holder with the guides removed?

A. It is not.

Q. Now, let us see if you did not hand out a misleading statement. Look at folio 1713, page 371. You said: "The one on Second avenue just north of those two described is a relief holder of 150,000 cubic feet capacity. The one to the east, on the north side of 98th street is a holder of 300,000 cubic feet capacity." You didn't mean oil?

1950 A. No, I was speaking about gas.

Q. But the way you left it, you gave the impression that it was a gasholder.

A. If you misunderstood me, that was your fault. I can supply you with the answers, but not the understanding.

Q. Then I asked you as follows:

"The gas entering the holders that you have just

mentioned is manufactured here at this plant", 1951
and you answered, "It is."

Mr. O'Brien: If that is the attitude of the witness——

The Master: No, no, we will know his attitude from the testimony.

Mr. O'Brien: I think he should be reprimanded. He is too cocky to sit here in a legal proceeding, trying to bait counsel.

Q. Then you said, in answer to the question, "The gas entering the holders that you have just mentioned is manufactured here at this plant", you said, "It is 2." Are all these holders in use?

A. They are. 1952

Q. Isn't there one of them that is not in use?

A. There is not.

Q. You had in mind reserving the right to claim that this was used for oil and not for gas?

A. If you didn't ask me the right questions, that is your fault. I am answering them and you are asking them.

By the Master:

Q. Is there any other of these gas holders that you have been talking about except where you have indicated, that are used for the storage of gas oil, and not for the storage of gas, any of these holders 1953
at any of these stations?

A. You are referring to all the holders I have described?

Q. All you have described.

A. There is no other one of these holders which is used for the storage of oil.

1954 By Mr. Chambers:

Q. I call your attention to page 584, folio 1750. Have you got it there?

A. This is yesterday's testimony?

Q. Yesterday's testimony. Now, I asked you this question:

"On block 1670, lot 1, are there not some coal gas benches there which are not in use at the present time", and you answered, "No".

"Q. There are none?"

"A. No coal gas benches."

Did I fail to ask the question in the right way, or what technicality——

1955 A. I didn't know what you wanted to ask.

Q. There are no coal gas benches there?

A. There are not.

Q. There are coal gas arches there?

A. Coal gas arches?

Q. Yes.

A. Not specifically coal gas arches.

Q. Well, what is there?

A. There are the brick arches of some benches that are oil gas benches.

Q. That is the distinction, is it?

A. Yes.

1956 Q. Wherein in my question did I fail to ask you sufficiently so that you could tell me that?

A. You asked me if there were any coal gas benches there, and I answered you no.

Q. You now say there are benches there, but they are not coal gas benches?

A. They are oil gas benches.

Q. How many are there there of them?

A. I do not recall how many of them there are.

Q. Aren't there six?

A. Probably. 1957

Q. Are they all in use?

A. They are used.

Q. Are they all in use now?

A. The last time I saw them they were storing fittings in the arches.

Q. Do you want to leave it that way, that they are using them for storing fittings?

A. That is the way I last saw them used.

Q. Now, turn to sheet No. 5 of Exhibit No. 178, block 979. Now, this is this old gas plant that we were talking about yesterday?

Mr. Ransom: Is counsel testifying?

Q. It is the coal gas plant, isn't it? 1958

A. Block 979?

Q. Yes, or water gas?

A. Now, let us see what is the question. Your question is, is it a coal gas plant or a water gas plant. It is a water gas plant.

Q. Now, the building just west of the salt water pump house consists of eight arches in two stacks, does it not?

A. You say the building consists?

Q. The structure?

A. There are a stack of benches west of the salt water condensers. 1959

Q. Are there not eight arches?

A. That is my recollection, that there are eight.

Q. Now, some of those arches have retorts in place, have they not?

A. I don't remember how many have and how many have not.

Q. Some of them are empty?

A. I don't recall how many are empty.

1960 Q. Some of them are empty?

A. I don't remember that, that any of them are empty.

Q. Well, you don't know one way or the other?

A. I have not observed them in particular detail.

Q. Are they in use now?

A. You mean have they made gas in them? No.

Q. What did you mean yesterday when you said at folio 1576, in answer to this question: "You did not notice any benches, coal benches not in use", you said, "I did not notice any coal benches not in use."

1961 A. You asked me about coal benches and specified particularly.

Q. Well, it was not quite correct, what you said yesterday, was it?

A. Entirely correct and responsive to your question as framed.

Q. You made the same distinction as before, that they are oil benches?

A. I did.

Q. Wasn't this an old coal gas plant once?

A. I don't know how many years back your question relates to. I never knew of it as anything but a water gas plant.

1962 Q. Were these benches always used for water gas?

A. As far as my knowledge goes they were used in that connection.

Q. So, if I had asked you if there were any oil gas benches not in use, you would have said yes?

A. Are you asking me that question now?

Q. Yes.

A. Are there any oil gas benches not in use?

Q. Yes.

A. There are some oil gas benches there on which they are not now making gas.

Q. I asked you yesterday on that same sheet, No. 5, block No. 978, if there was not a sign on the south side of 21st street, reading "National Coal & Coke Company", and you said there was, did you not?

A. I do not recall. I would rather you would show me that answer.

Q. Is there a sign there that reads National Coal & Coke Company office?

A. You are referring to the south side of 21st street are you now?

Q. Yes.

A. I don't remember any such sign; it may be there.

Q. Isn't that office in use by the National Coal & Coke Company?

A. Which office?

Q. Where the sign is up.

A. I don't know of any such use. If there is any, it is very small, very slight.

Q. Why do you say it is slight, when you don't know anything about it?

A. Because I know the use of the rest of the building.

Q. If they use it, how do you know the use is slight?

A. When you say I don't know anything about it, is that intended as a question?

Q. If you don't know whether they use it at all or not, how are you able to say that their use of it is slight?

1966 A. Because I know the use of the building, and if the use of the rest of the building was 99.44 per cent, their use could not be more than .56 of one per cent.

Q. Their use might be very important, might it not, this office of the National Coal & Coke Company?

A. Important measured by what standard?

The Master: We seem to get nowhere by this discussion. The witness apparently does not know very much about it. Mr. Chambers, you need not be fearful that if there is something that occurs to you later on, that you will not

1967 be able to ask it.

Mr. Chambers: I would like to make a little further examination while the witness is on the stand.

The Master: How is that?

Mr. Chambers: If I can reserve a little further cross-examination, I have not quite finished.

The Master: If you are not prepared to go on with the cross and complete it, and you would rather have Mr. O'Brien go on with his cross now, I will permit that to be done.

1968 Mr. Chambers: That is fine. There is one thing more, perhaps, that I can close up.

The Master: What I was about to say, Mr. Chambers, is that my ruling that the cross-examination shall proceed forthwith, is, of course, having in mind the difficulties of a particular situation. If anything occurs to you later on, and you want to recall the witness for further cross-examination, and he is still

alive, I will permit it to be done. The only 1969
point in my mind is that I want to protect
both sides in the taking of testimony.

Mr. Chambers: Thank you; that is fine.

Q. Mr. Alrich, you said it would be considerable
of a task to superimpose on this Exhibit 178, the
various structures that you have described. Now,
is it not a fact that the company has in its archives
just such a paper or just such map and plans as
that already, for some of these pieces of property.

A. Showing all of the stations complete?

Q. I would not say complete, but various parcels
that are included in this exhibit, upon which are 1970
shown some of the structures.

A. We have drawings showing plans and struc-
tures.

Q. Many of them, haven't you?

A. They have a number of drawings in the files,
showing——

Q. Showing just how the buildings and holders
are on the land?

A. In many cases to show a plant or property
they would have to be pieced together, and there is
reconstruction work constantly going on that re-
quires the piecing together of such drawings.

Mr. Chambers: Now I ask counsel to give it 1971
to us in the pieces, and we will construct it.

Mr. Ransom: As far as counsel for the com-
plainant is concerned, I spoke to Mr. Alrich
last night about the possibility of getting to-
gether anything that there was which might
be helpful in this case.

With respect to our files, in this respect as
in other respects, you have now and have had

1972 for six months, complete and full access to any records with respect to either properties or mains.

Mr. Chambers: Would you just as soon leave that out, because I do not agree with you?

Mr. Ransom: You may examine anything that we have.

Mr. Chambers: Now, the question is, will you furnish it? I think it would help the Court also. Will you furnish us with these maps with the structures on them so the Court can see right off just where the holders are on a piece of property? He may cut out some and he may

1973 not.

Mr. Ransom: I shall endeavor to get together something of that sort. I spoke to Mr. Alrich after we left the court yesterday, about how far the records and our own drawings would permit the production of that sort of thing, without simply needlessly encumbering the record with a lot of building plans and drawings.

Mr. Chambers: Can't you give them to us for examination now, and it will save a lot of time?

1974 Mr. Ransom: It has been true all along, and it is true now, just as it is true of the mains and other things, the records of the company, the drawings, maps, the plots are completely at your disposal. We do not believe it is necessary on behalf of this complainant to put all of those things in evidence. Upon any matters upon which it becomes consequential, we shall put them in evidence, or at least offer them.

Mr. Chambers: If the Master please, I did 1975
not know they had them until just now. Now, we would like to have them. We would like to have them this afternoon.

The Master: Send somebody up this afternoon and go through their files.

Mr. Ransom: For instance, they asked about the general office building. There are several wheelbarrow loads of plans on the general office building.

Mr. Chambers: We will take a wagonload if you will give them to us.

The Master: Go up to their map room and 1976
pick out what you want and let us know what you want.

Mr. Chambers: Thank you, that is fine.

Mr. Ransom: If you will concretely indicate what you want——

Mr. O'Brien: When it comes to inspecting the plans, here is the situation. We go around to see the plans, and their employees—we do not want to embarrass them by asking them something, or asking them to do something that they are told not to do. When we ask what a structure is, the man is trying to be courteous, he is a decent fellow, and at the 1977
same time he is under instructions not to open his mouth.

The Master: Has that happened?

Mr. O'Brien: That has happened.

The Master: When?

Mr. O'Brien: Yesterday.

The Master: Where?

Mr. O'Brien: At 14th street. As soon as

1978 they made it clear that they were under instructions, the only natural thing for us to do was not to place them in an embarrassing position. The man was tremulous and shaking with fear lest he should do something that would cause him to lose his job, if he gave us some information as to what is beyond those closed doors.

Mr. Ransom: The men had been given affirmative instructions to give any information necessary as to the location of properties, etc.

The Master: I knew you would say that. That simply accentuates what I have been
1979 saying all the time, what is the use of this discussion? One side charges the other side with bad faith, and the other side denies it.

Mr. O'Brien: Let me read into the record on this point, and I am doing it for a good legal purpose——

The Master: What do you want to read?

Mr. O'Brien: The permit. I want to have it in the record of this case.

Mr. Ransom: I will consent that it go in.

Mr. O'Brien: This simply says, "Come on in, the water is fine. If you see anything you
1980 want, take it, look at it and examine it".

Mr. Ransom: I ask that the permit be put in the record, as issued to the defendant and their various representatives.

The Master: You offer this in evidence, do you?

Mr. O'Brien: I do.

The Master: Mark it in evidence.

Permit received in evidence and marked 1981
Complainant's Exhibit No. 182.

The Master: Mr. Chambers, are you through with your cross examination, so far as you can go at this time?

Mr. Chambers: There is just one thing more.

Q. I asked you, Mr. Alrich, sometime during the cross-examination, who built the boiler house at 15th and 16th Streets. Do you remember?

A. Yes.

Q. Who was it you said? Did you say? You were to look it up.

A. I did. It was Richard Deeves & Son.

Q. A New York concern? 1982

A. Yes.

Q. Have you the company's plans showing the location of the structure?

A. We have.

Q. On 15th and 16th Street?

A. Yes.

Mr. Chambers: One thing more. I think the company should furnish us with the right of way of the City which was discussed yesterday.

Mr. Ransom: Furnish you with the right of way?

Mr. Chambers: The agreement between 1983
yourselves and the City for that right of way over that property.

The Witness: You are referring to Block 1107.

Mr. Ransom: There is no objection to producing that.

Mr. Chambers: All right, let us have it to save time.

1984 The Master: Now Mr. Chambers, so far as you know, are you through with your cross-examination?

Mr. Chambers: Yes, subject to the reservation your Honor made that if I found something else——

The Master: What I want to get at is this, that so far as you know at this time you are through with the cross-examination. What I said before is that if anything additional suggests itself to you, if the witness is accessible or can be obtained, we will give you permission to recall him for further cross-examination. Now,

1985 Mr. O'Brien.

CROSS-EXAMINATION BY MR. O'BRIEN:

The Master: Mr. O'Brien, probably there are some points that have occurred to you that did not occur to Mr. Chambers that you will want to inquire about. I take it that you will not want to go over the same ground that Mr. Chambers covered.

Mr. O'Brien: I will try not to reiterate matters that have been gone over.

The Master: Confine your examination to

1986 matters that are not covered in some other form, or that are not perfectly covered.

Mr. O'Brien: I may overlap a little, but I will try to keep that before me as I run along.

I call your Honor's attention to the fact that this permit is confined to the hours of 9 A. M. to 5 P. M., and judging from my experience under it yesterday, the gentlemen, the employees, do not feel called upon to answer any questions. They were courteous and we were

a little bit embarrassed lest we should tres- 1987
pass upon the directions which they had received.

The Master: Well, that is a pretty difficult situation for me to handle.

Mr. O'Brien: I know that.

(Discussion off the record.)

Q. As preliminary to my cross-examination, Mr. Alrich, there isn't any "d" in your name, your name is Alrich?

A. A-l-r-i-c-h, Alrich.

Q. A great deal of your testimony in Mr. Chambers' examination of you dates from the day you came with the company. I don't know why it 1988
figures, but that was back in what year, 1901?

A. Yes.

Q. When you first entered the employ you had come from this machine shop in Springfield?

A. No, from the Garvin Machine Company of New York, who had had a contract for part of the extension work at Springfield, Massachusetts.

Q. Then your work was in Springfield for the Garvin Company?

A. Back and forth.

Q. For them?

A. Yes. 1989

Q. As a machinist?

A. No, in charge of the installation of the machinery, being put in that armory.

Q. You were set to work at twenty-one years of age, installing machinery?

A. At twenty-one? I don't think I testified to that.

Q. That is my recollection of your testimony?

1990 A. Your recollection is wrong. I will refer you to the record. I said it was twenty-one years ago.

Q. Then you came from that company finally into the employ of the Consolidated Gas Company?

A. Yes.

Q. And in the capacity of a draftsman?

A. Draftsman and engineer.

Q. Now, they didn't call you an engineer when you went into their employ, did they?

A. I don't know what they classified me at on the pay roll.

Q. Well, you went to work for them, and you were drafting plans, were you?

1991 A. Drawing plans, and they very quickly gave me some outside supervision work along therewith.

Q. Were you there under Col. Mill?

A. Yes.

Q. He didn't mention you when he went over his career with the complainant company, as one of his assistants as an engineer in his enumeration of all the engineers he had?

A. Are you telling me something?

Mr. Ransom: What is this, testimony, or what is it?

Mr. O'Brien: That is a question.

1992 The Master: The question is not allowed.

Q. Well, tell me what work you supervised outside when you first went to the company?

A. The first work that I supervised eighteen years ago—I don't remember.

Q. What was your salary when you first went with this company?

Mr. Ransom: I object to this as immaterial and incompetent.

The Master: I will allow it.

A. $24 a week.

1993

Q. What is your salary to-day?

Mr. Ransom: I object to the question as extremely improper. It has no bearing upon any issue before this Court at this time.

The Master: I will allow it.

Mr. Ransom: Exception.

A. $500 a month.

Q. What was your salary a year ago?

The Master: That is disallowed.

Mr. O'Brien: Your Honor, it is perfectly proper here——

The Master: For what purpose?

1994

Mr. O'Brien: This witness has put himself in the position of being the company, he said, "We did this", "We did that", "We altered buildings", and for all we know this complainant is going to stand upon his testimony as to whether they entirely altered a number of buildings since 1906.

The Master: I will not allow the question what his salary was a year ago, and will allow you an exception.

Mr. O'Brien: The question whether they have raised his salary is very important as bearing on his interest in this case.

1995

The Master: I will permit you to ask him whether or not his salary has been raised within the last year.

Q. Has your salary been raised within the last year?

A. It has.

Q. How much?

A. $250 a year, I think.

1996 Q. Don't you know?

A. Why, I could figure it out.

Q. Are you guessing about it, or don't you know what your raise was?

A. I would know.

Q. Was it no more than $250 in the past year?

A. It was not.

Q. Are you paid any bonuses?

A. You mean on work done? No.

Q. By the complainant company for anything you do for them, are you paid bonuses?

A. You mean a systematic arrangement of additional compensation?

1997 Q. No, I mean are you paid bonuses. You know what a bonus is?

A. I am trying to find out what the question is.

By the Master:

Q. Does the company allow you, in addition to the fixed compensation, any additional compensation by way of bonus at stated times of the year, or for Christmas, or anything like that?

A. No, they do not.

By Mr. O'Brien:

Q. Then your salary is a fixed salary?

A. It is.

1998 Q. Is there anything definite as to how long it will continue? Are you employed by the year?

A. Why, I don't know that there is anything that limits the time for which my salary is to continue at a given amount, or anything that limits my term of employment.

Q. Then you are not under contract for a given term with the complainant company?

A. I am not.

1999

Q. You may be dropped at any time, or you may leave them at any time, without violating any agreement?

The Master: That has been answered. He says he has no contract, and that follows.

Q. You mean oral or written?

A. Oral or written.

Q. Will you state what you were getting three years ago in salary?

Mr. Ransom: I object to that question.

The Master: Not allowed.

Mr. O'Brien: Your Honor, I think it is perfectly proper.

2000

The Master: Well, if I thought it was proper I would allow it. I will allow you an exception.

Mr. O'Brien: I wanted to find out how far the witness is interested in this case.

The Master: I don't see how the question you are now asking bears upon his credibility or his interest, or in making clear anything heretofore testified to. I will, therefore, not allow the question.

Mr. O'Brien: It will appear, when we get through with this case, that all the witnesses 2001
that are asked to come in here, to sustain a case to set aside a statute, depend for their life and death on their interest in this corporation, and it will make all the difference in the world on the question of what salary they have been getting and what raises they have got when they started to get ready for

2002 this suit. That is very important as going to the credibility of the witness.

The Master: I have permitted you to bring that out. I will permit you to ask whether he was raised the year before or not.

Q. Did you receive any other raise in salary beside the one you have mentioned within the past two years?

A. I don't remember.

Mr. Ransom: I object to the question.

The Master: I will allow it.

Mr. Ransom: Exception.

Q. You say you don't remember?

2003 A. I don't remember.

Q. What do you mean by that? Is it something you might have a little doubt about?

A. I say I don't remember.

By the Master:

Q. Did you get an increase within three years other than the one you have testified to?

A. I think I had another one within three years. Which year it was I don't remember.

Q. What was that other raise that you got within three years?

A. $250.

2004 By Mr. O'Brien:

Q. A month or a year?

A. A year.

The Master: I will not permit any further questions on that line.

Mr. Ransom: I have an objection and exception as to this line.

The Master: Yes.

Q. You took no part in the former case?

A. I was not a witness.

2005

Q. I didn't ask you that, Mr. Alrich. There is no use trying that scheme with me, because I am going to get the answer if it is regular.

The Master: Mr. O'Brien, I will show you the difficulty with that kind of cross-examination. You say you didn't ask him that question. I thought you did. Now, I understood your question precisely as apparently the witness understood it.

Mr. O'Brien: Your Honor, I am looking at him through the glasses of that record, and the attitude he chose to show with Mr. Chambers.

The Master: You want to have in mind the 2006
fact that he is that character of witness, and therefore, you are held closely to the language you yourself used, and that is why you do not want to get into a discussion as to what you mean by your question. When you say, "You took no part", that is subject to a construction as wide as the town itself. He may have carried some papers down to the Court House; he may have been a messenger boy to do something. Ask him, "Were you a witness".

Q. Were you a witness in the other case?

A. I was not.

2007

The Master: Did he prepare any papers or any data? Then you will get the facts.

Q. Did you prepare any testimony in the other case?

A. For myself, no.

Mr. O'Brien: Your Honor, I am going to object to that kind of answer.

2008 The Master: Let me see if I can get the facts.

By the Master:

Q. Were you in the employ of the company when this other case was being tried?

A. I was.

Q. Were you called upon for any service in connection with the preparation for the trial of that case?

A. I was.

Q. What did you have to do with it in any way, shape or form?

Mr. Ransom: I object to that as quite immaterial.

2009 The Master: Well, it may be immaterial, I don't know.

Mr. Ransom: Exception.

The Master: Mr. O'Brien undoubtedly has something in his mind, or he would not ask that kind of question.

A. I recall having worked on the preparation of the maps showing real estate owned by the company, and I recall having prepared some diagrams showing the gas rate in different cities in New York State. Those are the only two things that stand out in my memory now. That was thirteen years

2010 ago.

By Mr. O'Brien:

Q. In this period from 1901 down to date, Mr. Alrich, you have been engaged in the engineering department, and particularly in construction work. Is that correct?

A. That is correct.

Q. And the company has a practice of drafting plans for all of the construction work done by it?

A. Practically all; there have been exceptions.

Q. You said that you had drawn the plans for the 2011
iron work or the steel construction of the office building at 15th street and Irving place?

A. Yes, I had charge of that design.

Q. Had complete charge of that work, did you?

A. Of the design of the structural work and the foundation.

Q. What did the architect do?

A. The architect furnished the design for the facade and the ornamental features on the ground floor, and acted in an advisory capacity as to the general arrangement of the building.

Q. What did Mr. Cullen Morris do?

A. Mr. W. Cullen Morris had the higher super- 2012
visory authority over the prosecution of the entire work.

Q. Well, you were under Mr. Morris, were you?

A. I was.

Q. And you say you supervised the steel construction?

A. I did.

Q. Do you mean to convey the idea that they depended upon you to take care of the whole of the fabricating of that construction? I mean of the drawings only?

A. They did. 2013

Q. Now, you are acquainted, when you spoke about the construction of holders, and you spoke about a holder being designed by you in company with Bartlett-Hayward, with the distribution system of the company.

A I don't understand that question, Mr. O'Brien.

Q. I am trying to find out how far your work extends into the main system.

2014 A. The system of mains?

Q. Yes, the system of mains?

A. I can easily tell you that if you want to know, my connection with the system of mains.

By the Master:

Q. Tell us?

A. Where there have been cases of special construction necessary, like crossing the subway, and a large sewer where there has been required a steel box of rectangular form transforming at the ends to meet the pipes, I have designed special work of that kind for the Department of Mains.

By Mr. O'Brien:

2015 Q. Otherwise it is a simple matter done by any other branch of the company?

A. I would not characterize it as a simple matter.

Q. I mean an ordinary extension of mains in the street, the matter of drawing plans for an extension of mains on the part of the company, is that done in your department, or is it done in the street department or main department or some other department?

A. It is done partly in both.

Q. Then have you in the files of your department, or have you in the files of the company, diagrams

2016 or plans or records that will show the complete main system of the company? A. I do not know.

Q. You say you do not know?

The Master: That is what he said.

Q. Do you mean to say you have never seen such plans or such layouts?

A. No.

Q. When did you see it then?

A. Which? What? See what?

Q. I asked you if you mean to say that you have never seen such a plan or layout, and your answer is no. I will ask you now when did you see it? 2017

The Master: What does that "No" mean?

Q. Does it mean that you have seen such plans, or that you have not?

A. No, such a plan, that is a plan on the distribution of mains and piping in the street. I have seen plans, a plan of that character.

By Mr. O'Brien:

Q. Have you seen any complete plan, or in sections, that would show the main system of the complainant company and its various connections with other companies, its subsidiaries, or with other companies? 2018

A. I have seen plans showing some sections. Your first question was as to complete——

The Master: Don't tell Mr. O'Brien what his question is. Just answer his questions as far as you can and as you understand them.

Q. What I mean, Mr. Alrich, is, if four or five of the men running the gas company happened to die to-morrow and there was great disorder and confusion in this city, where would you go to find out about the connection of the mains?

Mr. Ransom: I object to that. 2019

The Master: Objection overruled.

Mr. Ransom: Exception.

A. I don't know who you are assuming should have died.

The Master: No, no, Mr. Alrich. What Mr. O'Brien wants to know is this, as I understand it. Is there on file with the company, so far as you know, a map, or a set of maps showing the

2020 system of mains of the company, with their various connections in the bed of the street.

Mr. Ransom: May I just state the objection to that? Here is a witness who has not undertaken to testify regarding mains. He is not in that department, so that that is in no way under his general jurisdiction, and he is not the company. The fact, of course is that there are certain maps and drawings on which representatives of the defendant have been doing work at various times in the past, and on which the expert representative of the defendants will be at work this week. Two of the

2021 defendants have made considerable use of these main maps——

The Master: You see, Judge, you are making a statement, not an objection. The objection is what?

Mr. Ransom: The objection is that this is not the proper question to address to this witness.

The Master: That it is not proper cross examination?

Mr. Ransom: That it is not proper cross examination.

2022 The Master: Objection overruled.

Mr. Ranson: Exception.

By the Master:

Q. Now, what Mr. O'Brien is trying to find out, Mr. Alrich is whether there are in the files of the company, or whether there is in the files of the company, a series of maps, or one map, which shows the system of mains in the bed of the streets, with

eir various branches and connection. Do you 2023
ow?

A. There are maps, their completeness being un-
nown to me.

y Mr. O'Brien:

Q. There are such maps?

A. Yes.

Q. Have you a model, or have you made models
at show the connections of the mains of these
rious companies?

A. I don't know of any.

Q. Did you ever see the model in the governor
ase at 15th Street?

A. I don't remember such a model there. 2024

Q. You never saw it? You don't remember it?

A. I would have nothing to do with it.

Q. When were you last there?

A. Last Saturday.

Q. And you didn't see the model on the wall that
ows the connections of mains?

A. A model?

Q. Model, yes, m-o-d-e-l, model?

A. I don't recall it; it may be there.

Q. You will say that you never saw a model that
ows the connections of the mains, the layout of
e pipes—— 2025

The Master: The trouble with the question Mr. O'Brien apparently is that the witness probably calls it something else. Now, don't call it a model. Say, is there any thing on that plan which indicates that. He may call it something else, that is the trouble.

Mr. O'Brien: Well, if that is the attitude of this witness——

2026 The Master: You cannot get the attitude of
witness.

Mr. O'Brien: I ask the Court to admonis
him.

The Master: There is no use in admonishing
him. What we want to get at is the fact.

Mr. O'Brien: That is what we want.

The Master: When I see, from the attitud
of the witness and the question put to him
that probably there is an explanation of th
friction between counsel and the witness, I wil
try to straighten it out.

By the Master:

2027 Q. Now, is there something in that governo
house which shows the connections that M
O'Brien refers to?

A. There probably is, but I do not recall
model.

Q. Well, is there a map or diagram of some kin
there that you now remember?

A. I think there is a diagram which gives hi
the valve settings for the interior of the buildin
the connections.

By Mr. O'Brien:

Q. You do not recall that the man in charge
2028 the governor house calls it a model, and that th
picture itself calls it a model?

A. I don't know what the man said about it, an
I do not recall any title on the diagram.

Q. At any rate you have seen such a represent
tion of the connections and pipes and mains an
so on?

A. I have seen a diagram of the connections i
that house.

Q. And you have seen there the connection of 2029
the New Amsterdam mains with these mains of the Consolidated Gas Co.?

A. I have seen the connection itself.

By the Master:

Q. No, on this diagram.

A. I do not recall what the diagram shows, I do not recall that detail of the diagram; but I have seen the connection.

By Mr. O'Brien:

Q. You have on that diagram various numbers. I suppose those are the numbers of the governor system?

A. You are asking me what the numbers are? 2030
I assume that they would be the valve numbers, it being the general scheme to number those valves so as to enable the superintendent to give instructions on the setting of them.

By the Master:

Q. Referring to the valves by numbers?

A. Yes.

Q. And for that purpose they have a diagram of some kind which will identify the valves by numbers, is that the idea?

A. Yes.

By Mr. O'Brien: 2031

Q. (Showing paper to witness.) Will this paper which I hand you give you a rough representation of the various numbers on that diagram?

A. Do you mean does this convey in an approximate way the arrangement of the valves in the building, to my mind?

Q. No, I am speaking about the diagram now.

2032 By the Master:

Q. Can you identify that as a very rough representation of the diagram?

A. No, I do not.

By Mr. O'Brien:

Q. Well, there are various numbers on the diagram, and they represent something, don't they?

A. They do.

Q. Who has the key to that?

A. To those numbers?

Q. Yes.

A. Why, I presume the man in charge of the station understands them.

2033 Q. I am not asking you what you presume. I ask you, who holds the key if you know?

A. I don't know of any key. I should not think it needed any.

Mr. O'Brien: I move to strike out the latter part of the witness' answer.

The Master: I will take it.

Mr. Ransom: The difficulty is that he is interrogating this man on a matter of distribution. That is not a matter covered on direct at all, it is a matter of distribution.

Q. You said a few minutes ago you did know that

2034 the mains were connected?

A. That the mains?

Q. I am speaking about the governor house and the mains underneath the governor house, as pictured by that diagram. You know they are connected, don't you?

A. The mains and valves are connected together, yes.

Q. You know that the New Amsterdam holder there is connected with this governor house?

A. I do. 2035

Q. And you know there is a means of passing the gas from the New Amsterdam holder through the mains into the mains of the complainant company?

A. There is, at that point.

Q. Do you know the man in charge there to be working for both companies, or does he work for the complainant company?

A. He works for the Consolidated Gas Company.

Q. Have you ever seen his records there of the pressure indication on the diagrams?

A. No, never noticed them. They would not interest me. 2036

Q. Will you say that he does not do work in connection with the gas of the New Amsterdam holder?

A. No.

Q. Now that you have identified in your memory this diagram, will you tell us whether in the main office of the company, or in any office of the company, or anywhere, there is in sections or in complete representation, some similar diagram that will indicate the whole main system and all its connections of the subsidiary companies?

A. I do not say that I recall that diagram. I said that I knew the general character of such a diagram, and that they probably had one there. I do not pretend for a moment to remember the diagram, or whether it was on the wall or on a table. 2037

By the Master:

Q. Well, that is not so important, Mr. Alrich. The question really is, having reference now to the kind of a diagram that Mr. O'Brien has been re-

2038 ferring to, do you know of any one diagram in the company's main office or elsewhere, showing all of the various plans, with their various valves and pipe connections?

A. I do not.

The Master: Is that what you wanted?

Mr. O'Brien: That is what I wanted.

By Mr. O'Brien:

Q. Have you ever seen such a diagram?

The Master: He has said no. Go to the next line of questions.

Mr. O'Brien: I am obliged to keep searching, because of the witness' attitude.

2039 The Master: I will help you to be searching, but there is no use in having the witness say "no" two or three times.

Mr. O'Brien: He uses "believe" and "assume" and "that is not within the scale of my knoweldge", and all those things.

The Master: Asked the next question.

Q. Have you never used such a diagram in connection with your work for the Company?

A. You mean a diagram——

Q. I mean just the diagram I have described.

A. Showing all the connections, etc.? No, never

2040 did.

Q. Is there any place where you could go, from your knowledge and experience, to find a diagram or representation, either in section or in part or in whole, showing the main system of this complainant company and its connection with other companies?

Mr. Ransom: I object to the question. This witness is not the file clerk. Such records as there are may be examined by any of the de-

fendants. The question which is asked him is 2041
not at all within the sphere of anything concerning which he was examined on direct examination.

The Master: I am going to allow that question again, though I think it was asked and answered before; but I am not going to permit any further inquiry along that line.

(Question read by stenographer.)

A. I do not know of such a drawing.

y the Master:

Q. Or set of drawings?

A. Or set of drawings showing the whole thing 2042
mplete.

y Mr. O'Brien:

Q. Well, in part. Do you know where there are
y parts of it, any sections?

A. Such main drawings as the company has are
the main office at 15th Street and Irving Place.

Q. Do they show these connections that we are
peaking about?

A. I am not familiar with the drawings.

Q. I didn't ask you that, I asked you whether
hey show in sections these connections?

A. I have not the familiarity with them that
nables me to say what they show; I don't know. 2043

Q. How are you able to state then on the witness
tand to-day, that the Astoria plant was connected
p with the holder at 110th Street?

A. Because I saw the connection put in.

Q. How are you able to state that there were
o connections between Locust Avenue, where the
unnel comes from the Astoria gas plant, and the
older on Sedgwick Avenue with the forty inch
ain that runs up through the Bronx?

A. That is a forty-eight inch main.

2044 Q. How were you able to testify to that?

A. I saw the pipe put in.

Q. Is that your only knowledge of it?

A. I cannot say whether I have collected knowledge from other sources. I cannot apportion to various sources of information the knowledge that I possess.

Q. How did you come to see it put in? Did you draw the plans for it?

A. The forty-eight inch main?

Q. The forty-eight inch main, yes.

A. I do not recall having made any plans for it.

Q. How did you come to see the main being laid?

2045 A. I do not recall the circumstance that caused me to observe that work.

Q. Was it in your official work, or official duty as an employee of the complainant?

A. Doubtless part of it was.

Q. Did you see the whole of it laid?

A. I did.

Q. Then you were there at frequent intervals while it was being laid?

A. I don't know whether I would call them frequent; I saw the work going on through its entire length.

2046 Q. Will you answer me again, and say how you were able to make the sweeping statement that you made on the record this morning, that there were no connections with that forty-eight inch main which runs up from Locust Avenue to the Sedgwick Avenue holder?

A. I referred to one connection that went down to 111th Street.

Q. How were you able to make the statement that I refer to?

A. From seeing it put in.

Q. You don't know whether there were any 2047
changes made since it was put in?

A. That is possible, that there have been——

Q. It is possible then that that main is connected up with other gas companies?

A. Yes.

Q. Now, in the records of the company, have they for their own purposes, given the various holders numbers throughout the city?

A. No one sequence. Each works has numbers by which it knows its own particular holders.

Q. I didn't ask you that.

By the Master:

Q. Are the holders numbered; for instance, the 2048
holder here on one of these plots, is it known by a number; is there, for instance, a holder on block 1092?

A. Four holders on block 1092.

Q. Are they known by any numbers?

A. They are.

By Mr. O'Brien:

Q. Now, are there any numbers in sequence running through all the holders of the company, for all the various holders?

A. There is not.

Q. Then what does holder No. 9 mean and holder 2049
No. 10 mean on the diagram on the wall of the governor house at 15th street?

A. Holder No. 9, assuming that the diagram is so marked, means the holder on lot 1, block 989.

Q. That is a gas holder?

A. The property of the Consolidated Gas Company.

The Master: That is known as holder No. 9.

2050 Q. And is holder No. 10 the New Amsterdam gas holder?

A. It is.

Q. And are they called 9 and 10 with reference to other holders in other places in the city?

A. With reference to the two holders described, as being on block 985 only.

Q. Where is holder No. 1?

A. It is one of those that is on block 982, formerly on block 982.

Q. You mean the holder that is no longer in existance?

A. I do.

2051 Q. It keeps its number, even though it has passed from this earth?

A. I don't know whether it took the number with it or not, Mr. O'Brien.

Q. Where is holder No. 2?

A. No. 2 was on the same block.

Q. That number has not been given to any other holder?

A. That particular No. 2? I don't know.

Q. Where is holder No. 3 located?

A. On that same block it was located.

Q. Then there were three holders at one time on

2052 that block?

A. Yes.

Q. And holder No. 4 is where?

A. It was on the same block.

Q. And holder No. 5?

A. It was on the same block.

Q. And holders Nos. 6, 7 and 8?

A. No. 6 was on that block. 7 and 8 are on block 985.

Q. On what street? 2053

A. Between 17th and 18th streets, Avenues B and C.

Q. Are there any other gas companies beside the complainant company that have holder numbers in your records or on your diagrams or your models, or whatever you may call them?

A. I don't know about those diagrams. I am not familiar with them.

By the Master:

Q. Let me ask you. As I understood it a minute ago, in your various works, when you refer to holder No. 10, it is the New Amsterdam holder; is that right? 2054

A. At that station, yes, sir.

Q. Are there any other holders that are referred to in any of the various stations by number, that do not belong to the Consolidated Gas Company?

A. There are not. I think that is the only instance of such a numbering of a holder.

By Mr. O'Brien:

Q. How many holders has the complainant in the city?

A. I do not remember the count.

Q. You have given them to us individually. Roughly speaking, how many are there? 2055

A. I don't remember the count.

Q. You cannot say that offhand?

A. No.

Q. You have two plants making gas, one at 209th street and the other at 199th street?

A. They are making gas, yes.

The Master: Are there more than two making gas, that you have testified to?

The Witness: Let me see that diagram.

2056 Q. Can't you tell that without refreshing your memory?

The Master: Apparently he would rather refresh his memory.

Mr. Ransom: Referring to what exhibit?

The Master: 180.

A. Yes, we are making gas at 21st and at 99th Street stations.

Q. Those are the only two places where the company is now making gas, are they not?

A. That is correct.

Q. Do you know the capacity of those two plants at the present time?

2057 A. Only in a general way.

Q. Roughly speaking?

A. The capacity would be a thing subject to demonstration.

Q. Yes, go ahead; you do not need to give me a speech now. Give me an answer, if you know, roughly speaking what the capacity of the two plants is at the present time?

A. Well, just from my own impression I would rate 21st Street at about twenty eight million and a half per 24 hours and 99th Street at five to six million per 24 hours.

2058 Q. You are giving us the average of the year now, or is that the summer figure?

A. Oh, no.

By the Master:

Q. Capacity means the ability to produce the maximum.

A. No, and I am not pretending that is demonstrated capacity. That is my estimate.

Q. Of what those works will produce in 24 hours? 2059

A. For 24 hours.

By Mr. O'Brien:

Q. What is the sale of gas by the company per day at the present time?

A. I don't know. I don't interest myself with those figures except as I have occasion to.

The Master: If you do not know then just say you do not.

Q. You cannot approximate it, can you?

A. No.

Q. You do not know enough about the complainant company to say how much gas they are selling? 2060

A. No, it does not interest me.

Q. It does not interest you?

The Master: Strike out the words "it does not interest me".

Q. I call your attention, Mr. Alrich, to Block No. 982, the purifier house is there, isn't it, on Avenue C and 14th Street? This is page 3. The purifier house is along the west side of the avenue there?

A. Yes.

Q. And that is a building about—well, it goes the full length of the block 206 feet and runs back about 75 feet, doesn't it? 2061

A. Yes, together with the tool shed.

Q. Where are the tools located, the tool shed? That is on the north?

A. In this brick building I have described.

Q. Is that on the north end?

A. It is on the northwest corner. It is on the

2062 south side of 15th Street, just west of the purifier house.

Q. And the rest of that plot is 434 feet 10½ inches?

The Master: Not the rest of the block.

Mr. O'Brien: I say the rest of that plot.

The Master: Then say which in its entirety is that figure.

Q. Which in its entirety is 434 feet 10½ inches long—is an open space?

A. Except that area way in the rear of the purifier house that extends across the block. The rest is occupied as I have already described.

2063 Q. You testified at folio 1191 as follows:

"Q. Does anybody else use any portion of the balance of that lot 13? A. The truckman who is trucking that coal has some of the carts there that he is using in connection with the coal. A part of this yard, though, at the easterly end, I might say was used for the revivification of oxide."

Did you mean in that answer to convey the idea that the only trucks that were there were trucks that was used for conveying coal?

A. No.

2064 Q. That was not your purpose?

A. No.

The Master: He answered that.

Q. There are other trucks there?

A. There may be; I do not know how it stands at this moment.

Q. Did you count them when you were there last?

A. I never counted them.

Q. Would you be surprised if I told you there 2065
were 20 trucks there belonging to M. Cunningham, the contractor?

A. No.

Q. Does Cunningham truck any coal for the Consolidated Gas Company?

A. He has trucked a lot of coal for the Consolidated Gas Company.

Q. There are trucks there other than coal trucks, are there not?

A. I don't know.

Q. When were you there last?

A. I don't remember. Some few months ago.

Q. State the date about when you were there? 2066

A. I could not do it.

Q. Did you in preparation for your testimony go over all the property of the company; did you make a survey in order to prepare yourself to testify here?

A. I have to cover all the properties of the company from time to time and to what extent that purpose entered into such visits I am unable to state.

By the Master:

Q. Did you know you were going to be called as a witness? 2067

A. In advance?

Q. Yes.

A. I did.

Q. Did you know you were going to be called to testify generally to the location of these various properties and what they were used for?

A. I did.

Q. For that purpose and after you had been in-

2068 formed that you would be called as a witness, did you go around making a survey and make notes so you could testify?

A. I made no notes. I visited certain places in view of this testimony.

By Mr. O'Brien:

Q. You came down to the trial of the Kings County Lighting Company case a few months ago, didn't you?

A. I did.

Q. Was that in order to prepare yourself for this trial?

A. No.

2069 Q. In connection with the storage of coal here are you correct in the minutes where it says that the Eagle Pencil Company has been storing coal there since 1907?

A. 1917 that should say.

Q. Then the minutes should be corrected where it says 1907?

A. They should.

Q. Is all the coal in the yard there the property of the Eagle Pencil Company?

A. As far as I know.

2070 Adjourned to Thursday, July 31, 1919, at 10:30 A. M.

(Last Complainant's Exhibit 181.)

(Last Defendants' Exhibit C.)

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, Etc., *et al.* 2071

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, July 31, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. HAYWARD (by JOHN H. CLARK, JR.), of Counsel for Public Service Commission 2072
MR. O'BRIEN, of Counsel for defendant Swann.

Mr. Ransom: We were asked to produce the plans for the 15th Street office building. We have produced a very large quantity of plans for that building which now occupy a large part of the table of counsel for defendants. There is a considerable quantity of further plans for the same building which are now arriving. I suppose altogether there are something over a truck load and a half. The equipment plans for the building are not yet here. Many of these plans are the only copies which the company has of the plans for this building. 2073

The Master: Let us pile them all on the floor, just clear that table.

Mr. O'Brien: You don't mean to say that these have been filed in the Building Depart-

2074 ment. These are not the final results that were filed in the Building Department and subjected to their inspection.

Mr. Ransom: Anything that is on file with the Building Department any of the defendants may produce. We were asked to produce our plans, which we have done from our files, as we were requested.

The Master: I will not have any more discussion about it, Mr. O'Brien. Judge Ransom has produced what he understood was called for.

Mr. O'Brien: Is this for the purpose of a
2075 *reductio ad absurdum?*

The Master: No more discussion.

Mr. Ransom: One further statement on another thing. I have been asked to have made up floor plans of the building as it at present stands which would embody just the particular nineteen floors and basement.

I was asked yesterday to produce the agreement or lease or deed between the City of New York and the company with respect to the 42nd Street right of way. So far as I have been able to ascertain, and I think this is correct, there is no written agreement between the City and the company in that respect. There was
2076 some correspondence which was not carried on as a company matter, but was carried on by one member of the company's staff and the Corporation Counsel, whereby the City was permitted to go ahead and put in this temporary right of way. It is not in any form of agreement, and there is no money received by the company.

Mr. Chambers: No money was received by the company?

Mr. Ransom: As I understand. 2077

Mr. Chambers: Why not produce the letters.

Mr. Ransom: If I can get them, I will.

Mr. O'Brien: Is that revocable at any time?

Mr. Ransom: I don't know that it even reaches the dignity where revocation would be required. It is simply a user under an informal letter which was not even made a company letter. The originals of those letters, I take it, so far as they were written by Mr. Bradley of the company, are in the possession of the Corporation Counsel. If it is desired I will endeavor to obtain from Mr. Bradley's personal files any letters which he received 2078 from the Corporation Counsel or from the City in that respect.

I was asked to produce the Booth & Flinn leases, the leases between the Consolidated Gas Company of New York and Booth & Flinn, Limited. The leases and the renewals of leases which have been made, as there have been extensions of the Booth & Flinn contract with the City owing to delay in the completion of the tunnel work, I now produce.

The Master: Describe them, will you, by dates?

Mr. Chambers: I will ask that they be marked for identification. 2079

Mr. Ransom: I will describe what they are. The first is an agreement made the first day of June, 1916, between the Consolidated Gas Company of New York and Booth & Flinn, Limited, a Pennsylvania corporation.

Then there is a renewal of lease between the same parties, made on the 18th day of May,

2080 1918, that renewal being from month to month, terminable on thirty days' notice in writing.

Then there is the lease of the other portion of the property occupied by Booth & Flinn, made February 9, 1918, between the Consolidated Gas Company of New York and Booth & Flinn, Limited, for the term of a year, terminable on ninety days' notice.

Also a renewal of that lease made on February 9, 1918, for a further term of one year from February 1, 1919, on the same terms and conditions, this renewal being dated February 24, 1919.

2081 Mr. Chambers: I now ask that these leases which I call for be marked for identification for the present in the order in which they bear date.

Leases and renewals of leases marked Defendants' Exhibits D, E, F and G for Indentification.

Mr. Ransom: These documents which I have produced and given to Mr. Chambers are the originals from the company's files.

HERBERT W. ALRICH resumed the stand:

2082 CROSS-EXAMINATION BY MR. O'BRIEN:

Q. Mr. Alrich, you hadn't anything to do with these leases?

A. Did I have anything to do with them did you ask me?

Q. Yes.

A. Yes, the lease of block 991, lot 1, I was present when the matter was under its original consideration, and then when the lease was finally drawn, I

provided the dimensions that appear in that instru- 2083
ment.

Q. Who negotiated the lease for the company?

A. In the case of lot 1, it was negotiated by Mr. William H. Bradley, the chief engineer, and Mr. L. B. Gawtry on behalf of the company; and as I recall, Mr. George H. Flinn, of Booth & Flinn. I do not recall in the case of the bulkhead who the negotiators were. Michael Quinn, their general superintendent, may have had some part in them; in fact, I am sure he did, as I think further.

Q. You were asked here yesterday by the Deputy Attorney General as to your conferences with coun- 2084
sel for the complainant, in reference to testifying in this case. I understood you to say that you had met them and talked about the case.

A. If you are referring to a particular answer, I would like to see the answer to which you refer.

Q. Don't your memory extend over from yesterday; is it as weak as that?

The Master: Don't answer that.

Q. Now, will you state how many times you did talk with counsel about it?

A. I don't remember.

Q. Was it five times or ten or more or less?

A. I have no recollection how many times. 2085

Q. Can't you tell whether it was a great many or only a few?

A. The question being as to how many times I conferred with counsel as to the testimony I was to give?

The Master: Yes.

The Witness: I don't recall at all.

Q. Whether it was a great number or very few?

2086 A. I don't think it was a great number at all. I should say it was very few.

By Mr. O'Brien:

Q. Have you had any conferences or conversations with officers of the company with reference to your testifying in this case?

A. Beforehand, yes.

Q. When you so state, "beforehand", before what?

A. Before I testified.

Q. With whom did you confer?

A. With Mr. Robert A. Carter.

Q. How many conferences and conversations did
2087 you have with him?

A. I don't recall.

Q. Can you approximate it?

A. No.

Q. Was it one hundred or fifty, or more or less?

A. Oh, less than fifty.

Q. You went into a discussion——

By the Master:

Q. What is your best judgment, Mr. Alrich; how many times do you think you talked with Mr. Carter, half a dozen times?

A. Why, I cannot recall that, because I have been
2088 frequently in conference with him on the regular routine matters; I see him daily but on how many occasions he may have mentioned the fact——

By Mr. O'Brien:

Q. Matters would creep out in any conversation pertaining to the case, you mean? It would be pretty hard to separate just the conferences that were held on this case alone, is that what you mean to convey?

A. In part that.

By the Master:

Q. And what other part?

A. In part that, without undertaking to say that on every occasion we met there was any mention of it.

By Mr. O'Brien:

Q. Did Mr. Carter outline the testimony that you were to give, I mean the testimony, the scope of it?

A. He did not.

Q. Did he outline the subject matter on which you were to testify?

A. He did not.

Q. Did counsel for the complainant indicate that you were to discuss or be asked on the stand only questions as to circumstances of the case?

A. He did not.

Q. Did counsel for the complainant, or his assistants, indicate to you in any way what was to be the line of your testimony?

A. In part.

Q. To what extent?

A. It was very definite, Mr. O'Brien.

By the Master:

Q. What occurred; what was said?

A. Why, my best recollection is they told me my testimony would be needed on certain matters, in particular a general description of the plants, and they questioned me as to my familiarity with them.

Q. Did they tell you that you would be asked to bring out on the stand when the buildings were rebuilt and reconstructed?

A. They did not.

Mr. Ransom: We did not ask him that; that was only Mr. Chambers.

2092 Mr. O'Brien: I am talking about the things he volunteered on the stand.

Mr. Ransom: He didn't volunteer. He was asked and the Master permitted him to answer.

Mr. O'Brien: I have read the record——

Mr. Ransom: I didn't ask him as to when they reconstructed the property.

The Witness: I answered it. They did not.

The Master: Of course I know what you have in mind, Mr. O'Brien. There were times later on in the examination after Mr. Chambers interrogated that he did want to know when those were built and rebuilt, that the wit-
2093 ness did, according to my recollection, begin to volunteer, apparently to save time, and in anticipation of the question which he expected, but that was the result of a previous inquiry.

Q. Mr. Alrich, I just want to ask you one or two questions on the subject I touched upon yesterday, although I have no desire to repeat it. But I want a definite answer, and it is not on the record. Has the company through any of its officers or representatives, given you any bonuses during your employment in the company?

Mr. Ransom: I object to the question. There
2094 is no need of going into that again.

The Master: I do not think I will allow it. Objection sustained.

Mr. O'Brien: Your Honor, there is not an answer on the record, and the witness was evasive on that subject yesterday.

The Master: I do not think so.

Mr. O'Brien: I must press the question again, if your Honor please.

The Master: I do not think he was evasive.

Mr. O'Brien: We are entitled to find out 2095
whether he has been paid any bonuses, and a frank answer will certainly clear the situation.

The Master: Take the last three years, that is as far back as I am going to go, Mr. Alrich, your salary has been a fixed salary?

The Witness: Yes, sir.

By the Master:

Q. In addition to that have you received directly or indirectly from the company any additional compensation in any manner, shape or form by way of bonus or otherwise?

A. I have.

Q. In what form? 2096

A. Money that was paid to me for what you might say is overtime, working additional hours.

Q. How often has that occurred?

A. I think once.

Q. And how much did that amount to?

A. About $500.

Q. How long ago?

A. I don't remember. It was some time back.

Q. A year ago?

A. No, less than that.

Q. Within a year?

A. Yes, sir. 2097

Q. And what kind of work were you working on overtime at that time?

A. I don't recall. I had been going over construction expenditures and——

Q. Was it with relation to the preparation of this case for trial indirectly?

A. I don't recall that it was. I don't know.

Q. Might it have borne on it?

2098 A. It might have borne on it; I don't know.

The Master: That is what you want to get at, isn't it, that they paid him something extra, preparing this case for trial?

Mr. O'Brien: I am trying to get at a lot of things, your Honor.

The Master: Go ahead.

Mr. O'Brien: I want to know how he came to get $6,000 a year and $500 extra for the character of work that he has been doing.

The Master: I think you have that.

By Mr. O'Brien:

Q. Have you paid any expenses out of that?

2099 The Master: Out of what?

Mr. O'Brien: Out of your annual salary.

A. Do you mean do I pay expenses?

Q. Have you paid out of your salary any expenses?

A. For the company?

Q. Yes.

A. No.

Q. Did you pay out of the bonus any expenses to anyone?

A. For the company?

Q. For the company or yourself.

2100 A. Oh, I used the money and applied it to my own purposes.

Q. Did you pay any expense of the company out of it?

A. I did not.

Q. You have stated on the stand here, Mr. Alrich, that you have been engaged from time to time in work for the other companies, and that when you did you turned in a time slip or some kind of a

report that would indicate that you had put in a 2101
certain portion of your time on work for companies like the Mutual or the Standard or some other company. Now will you tell me if that report you turned in was a time slip?

A. It was not.

Q. What would it be called, and where is it filed?

A. I do not know where it is filed. I would describe it more as a general memorandum.

Q. To whom did you turn it over?

A. To Mr. W. Cullen Morris.

Q. And that would be done from day to day?

A. No, not as frequently as that.

Q. According as you were employed for part of 2102
your time in work for other companies, a memorandum would be turned in to Mr. Morris, would it?

A. I would say more from time to time and he would discuss with me the amount of my time that had been devoted to the work of other companies.

Q. Your check at the end of the month would not include, or would not be seperated from the work of other companies, would it?

A. You mean the money I received?

Q. Yes.

A. It would not change.

Q. You would get it in one amount, by the week 2103
or by the month?

A. By the month.

Q. You were paid a check?

A. In a check.

Q. Do you know whether any record in the Company's office indicates how much of your time has been spent on the work of these other companies?

A. I do not know.

2104 Q. Have you ever seen such a record?

A. I have not.

Q. Did Mr. Morris or anybody else indicate to you at any time that there was such a record kept?

A. He did not.

Q. So that so far as you know, there may not be any record?

A. I do not know anything about it.

Q. In the files or office of the company, that will give us an idea of how much of your time was spent for other companies on their work?

A. I don't know anything about it.

2105 Q. Could you approximate the proportion of your time that has been engaged in that way?

A. I could not.

Q. By the week or the month or by the year?

A. I cannot.

Q. Did you ever visit the plants of these other companies?

A. I have.

Q. Very frequently?

A. I have.

Q. In connection with what?

A. Work going on at those stations.

Q. Work of your company, or work of theirs?

2106 A. Construction work for those companies.

Q. And you have inspected their work, have you, in connection with your official work?

A. I have inspected their work.

Q. And you have made reports back?

A. I have.

Q. How frequently did you do that?

A. It did not occur with any regular frequency.

It would depend on what construction operations were under way by these other companies. 2107

Q. Well, were they frequent, or would you say how frequent they were and the character, the general character of the work; can you give us a general description of it?

A. Why, there have been in the last year extensions at the works of the Mutual Gaslight Company.

Q. That is located just south of 14th street, is it?

A. It is.

Q. Just on the north side of 13th street?

A. North side of 11th street, extending up to beyond 12th.

Q. Beyond 12th? 2108

A. Yes.

Q. And immediately south from the 14th street works of the complainant company?

A. They are.

Q. And the work was the matter of erecting buildings, was it, or installing mains, or changing the equipment?

A. We erected one large building there and installed some new apparatus.

Q. What was the character of the building?

A. A purifying house.

Q You erected a new purifier house, and did you install equipment in it, new equipment? 2109

A. We did.

Q. And that took how much time, do you recall?

A. I don't recall.

Q. How long a job was it?

A. We began that about the spring of 1917, I think, Mr. O'Brien, and we were fully a year building the building and putting the equipment in.

2110 Q. And you were there supervising that work?

A. I was.

Q. How frequently?

A. I don't recall. At times I would go there daily.

Q. And that over quite a period?

A. Well, in the earlier stages of that work I was there very, very frequently.

Q. And that over a period of how many months?

A. That I was there daily?

Q. Yes.

A. Oh, I don't remember.

Q. Two months, three months, four months?

2111 A. I don't remember.

Q. Well, approximate it?

A. Why, I cannot approximate what I don't remember.

Q. Your memory then fails you on that point?

A. It does.

Q. You reported your time in the customary way to Cullen Morris?

A. We discussed the matter. We did.

Q. Did you make a written report to him of the time spent there?

A. I did not.

2112 Q. Then you have only reported so far as the time is spent on that work orally to Mr. Morris?

A. I have some recollection of having written him a memorandum on an earlier occasion or occasions.

Q. Giving an outline of the time you were putting in there?

A. The time devoted to construction work of other gas companies.

Q. Then you have made a report to him covering

your work or time spent in working for other gas companies? 2113

A. There have been times when I have made or given him such a memorandum.

Q. And that would read in what way?

A. I don't recall other than that it was a general statement of so many days devoted to the work of these companies in a certain period.

Q. Then you would state there approximately the amount of time you put in for these companies?

A. Yes.

Q. What other companies besides the Mutual, or for what other companies besides the Mutual did you take part in construction work? 2114

A. The New Amsterdam Gas Company, the Astoria Light, Heat & Power Company, the Central Union Gas Company and the Standard Gas Light Company.

Q. The New Amsterdam gas making plant is at Ravenswood, is it?

A. It is.

Q. And that is located where?

A. At Webster and Vernon Avenues in old Long Island City.

Q. And the Standard's plant is located where, where they manufacture gas? 2115

A. At 115th Street and Pleasant Avenue, Manhattan.

Q. That is close to the 111th Street plant of the complainant Company?

A. It is.

Q. And the Central Union's plant where they manufacture their gas is located where?

2116 A. At 138th Street and Locust Avenue, in the Bronx.

Q. That is the same Locust Avenue whereon the tunnel terminates of the Astoria Company?

A. The same street.

Q. And does this forty-eight inch main that you spoke about yesterday, that transports gas from the tunnel of the Astoria Light, Heat & Power Company to the Sedgwick Avenue holder—does that pass by the Central Union Gas Company's plant?

A. The main I described does not. It goes west through 138th Street.

Q. And north through what avenue?

2117 A. Principally under Morris Avenue. It zigzags quite a little on its way to Fordham Road. That part of the Bronx is quite irregular in the street formation.

Q. How far away is it from the Central Union Gas Company's plant?

A. Four blocks.

Q. And in the streets adjacent to where this forty-eight inch main is laid the Central Union has its mains?

A. That is correct.

Q. The Astoria Light, Heat & Power Company you say you have been in their plant, too, on work for the complainant company?

2118 A. I have.

Q. And this work was construction work?

A. It was.

Q. Generally speaking, what was the character of it?

A. I have worked on that plant from the time the first shovelful of earth was dug.

Q. Did you design it? 2119

A. I designed many of the details of the plant, the structural steel work and foundations in particular.

Q. And who were the general contractors?

A. There was none.

Q. Bartlett-Hayward did part of the work, didn't they?

A. They did.

Q. What part did they do?

A. They built the 15,000,000 cubic foot holder; they built all of the purifying apparatus there and the condensers and washers, and the cyanogen 2120
washers and naphthalene washers and ammonia washers. They built the relief holder of the water gas plant; they built the twelve generators in the water gas plant and installed much of the apparatus accessory thereto. They built the tar storage tank, the tar separator system of the water gas plant; they built the shavings scrubbers, and furnished a considerable part of the piping for the gas mains throughout the plant. Now I am attempting to tell you this without a memorandum and——

Q. You do not need to apologize, Mr. Alrich; that seems to be pretty clearly expressed.

A. I have done the best I could. 2121

The Master: The witness simply does not want to be bound by his recollection, that is all.

Q. When was this work done?

A. Why, that is spread over quite a number of years from 1904 to 1918.

Q. The complainant spent many millions of dollars in that plant?

A. They have.

2122 Q. Thirteen or fourteen, wasn't it?

A. Oh, I do not know what it runs to. A pretty big figure. I have known it all, but I do not carry all of their accounts in my head. I mean the Astoria Light, Heat and Power Company has spent——

Q. What?

A. I mean the Astoria Light, Heat and Power Company has spent a large amount of money.

Q. Well, we speak of them all together.

The Master: The witness does not.

Mr. Chambers: If your Honor please, may I say that on the last trial in the Master's report

2123 he says it is the contention of the company that this Astoria plant is their own, they own all the stock, it is a part of their operations, and they contended that it should be treated as a part of their property upon which the rate should be based.

The Master: Your statement is apropos of what?

Mr. Chambers: I asserted the other day that the Astoria plant was this company and counsel took issue about it.

The Master: We will see what the issue was

2124 when we come to that phase.

Mr. Ransom: Let me say this: It is true that the Master was of that view, but counsel does not inform the Court that Judge Hough held that the Master was wrong in that respect, and that was done at the instance of these defendants, the same defendants who are now endeavoring to maintain the view which Mr. Chambers has indicated, and the Supreme

Court of the United States followed and accepted the view of the Circuit Court. 2125

Mr. Chambers: I am not maintaining any view. I am not maintaining any proposition about it one way or the other, but the fact is that the stock of it is owned by your company.

Mr. O'Brien: I want to say right here to your Honor that from my view of the case on what I have seen of it so far it will be necessary to find out the workings and the properties of every subsidiary of the complainant company, in order to pass upon the issues raised by the complainant in this case. Counsel asserted here yesterday that they bought gas, they admitted it; they bought gas and paid for it to the Astoria Light, Heat & Power Co. Your Honor could never pass upon the issues in this case without getting into the value of that plant and the cost of making gas in that plant, and the revenues to that company. They cannot come in here and say we paid 40 cents or 60 cents a thousand cubic feet to that company, and have that all concealed and taken for granted. 2126

Mr. Chambers: That is the point.

Mr. O'Brien: This is going to be sustained by what already has been developed in this case, your Honor, and what will develop—this complexity of connections, the distribution of gas from all these subsidiaries, the use of the same mains, the use of the same employees, and the use of holders, and pushing gas from one end of the city to the other. It means that you have got to have all these cases before you, 2127

2128 have all these companies before you, before you can unravel the complexities that they have raised by the issues in this case. Now what does that mean——

Mr. Ransom: Let us not sum up now, but I want to say this for the complainant——

Mr. Chambers: You are stating it so his Honor can rule on this.

The Master: There is no question before me to rule upon.

Mr. O'Brien: Will counsel state now—I cannot see why it should be deferred or he should stall upon it—Will you state why the

2129 complainant company does not control and own all the stock of the Astoria Light, Heat & Power Company?

Mr. Chambers: And what your contention will be in regard to it.

Mr. Ransom: The matter is necessarily controlled by the decision of the Federal Court and by the provisions of the Public Service Law and the rulings of the Commission under that law. There are certain suits pending of which this is only one. I take it that so far as gas which this company buys from other com-

2130 panies is concerned, if there is anything about the price paid which appears unreasonable the reasonableness of that price will be a matter of inquiry.

The Master: I will have to stop this discussion now. I won't hear any more.

Mr. O'Brien: Will your Honor hear me on this point——

The Master: I will not.

Mr. O'Brien: I will show you how absolutely 2831
necessary this discussion is here now.

The Master: No, it is not.

Mr. O'Brien: We are asked to go into this case——

The Master: Now, Mr. O'Brien.

Mr. O'Brien: Will your Honor bear with me?

The Master: No, I won't.

Mr. O'Brien: Will your Honor bear with me, because we must know how far the investigation will extend, your Honor.

The Master: Mr. O'Brien, the way to find 2132
out how wide an investigation goes and what the position of the other side is, based upon my experience, is by the raising of an objection before the offering of testimony. That is the way I find out when I try a case the attitude of the other side.

There has been no objection so far by the other side to inquiries made by you of this witness as to the character of work done at the Astoria plant. There was no objection made by the other side as to the approximate expenditure or money spent in the building of the Astoria plant. Now, sooner or later, 2133
somewhere or somehow, the point that you men are trying to drag out of Judge Ransom now is going to come up, and when it comes up it is going to come up in the proper way. Now let us save this discussion and go ahead. I have ruled.

Mr. O'Brien: I have an additional fact to

2134 put before your Honor, and I think it has some weight.

The Master: I do not want it now. That is not the way to try a case.

Mr. O'Brien: The point I emphasize——

The Master: Mr. O'Brien, proceed with your questions and it will come out.

Mr. O'Brien: And meanwhile the summer is rolling by and the investigators ought to be at work on the Astoria plant.

The Master: Yes, the summer will roll by and the winter will roll by, but we are going to try this case as it must be done.

2135 Mr. O'Brien: I want the record to indicate that I have asked counsel in open court——

The Master: You will have to stop where you are.

Mr. O'Brien: Can't I put that on the record?

The Master: The record indicates what counsel have said and what the Court has said. I did not interrupt counsel until I thought you had spent sufficient time on it. Proceed with the next question.

Mr. O'Brien: I note an exception to the ruling as to my line of inquiry along that line.

2136 The Master: Nobody has interrupted you yet.

Mr. O'Brien: My inquiry of counsel as to whether the complainant company controls all the stock of the Astoria Light, Heat & Power Company.

The Master: Yes, an exception is noted on that.

Q. Mr. Alrich, what was the character of your

work? It was construction work in connection 2137
with this company?

A. In connection with the Astoria Light, Heat & Power Company?

Q. Yes?

A. It was general engineering work.

Q. It was on the construction of buildings, was it, or equipment?

A. Both—everything.

Q. And what buildings in particular did you have to do with?

A. I think that would include the whole list, Mr. O'Brien.

Q. You had something to do in your official 2138
capacity with all these structures that have been erected there outside of the equipment you have just indicated was put in by Bartlett-Hayward Company?

A. No, I had work in connection with that, even.

Q. Even with that?

A. Yes, sir.

Q. And then did the complainant company, through their officers, also engineers or employees, supervise the construction of that plant?

A. It did.

Q. And had quite a number of them on the 2139
ground, did it?

A. The engineering staff was quite large when that work was going on. As to which ones were carried directly on the pay roll of the Astoria Light, Heat & Power Company I am not able to say. Further than that, many of them were directly employees of the Astoria Light, Heat & Power Company.

2140 Q. The plans for the structural steel and the foundations were made in your office?

A. They were.

Q. And made under your supervision?

A. They were very largely.

Q. And how much time altogether would you say you spent over there on the works?

Mr. Ransom: I object to the question as incompetent, as immaterial, and it has no bearing on any of the issues in this case.

The Master: Yes, I think it has.

Mr. Ransom: I have been willing to permit the defendants to——

2141 The Master: I think it has, Judge Ransom, for this reason. I take it one of the elements of cost is your pay roll for your help, and Mr. O'Brien's questions, I think are very properly directed to showing that the amount of money you attempt to prove as being used in the payment of help was applied in the interest of other companies, which may or may not ultimately come in here.

Mr. Ransom: If the inquiry and the evidence is limited to that phase of the case the complainant has no objection.

2142 The Master: I am ruling on the objection made to this question. I am not going to make general rulings. Proceed. The question is allowed.

Q. Just approximate it, Mr. Alrich, roughly, the amount of time you have spent over there?

A. I could not possibly do it. It covers such a period of time, and some part of that is so far back. I would be perfectly willing to give even an ap-

proximate answer if I could but it is impossible. 2143
It is humanly impossible.

Q. Well, would you say——

The Master: I won't permit you to ask anything more on that. I feel the witness has made an accurate statement. It is as good an answer as can be made under the circumstances.

Q. Well, in some years, while the plant was being put up, you spent more time than you did latterly?

The Master: He has already said that.

Mr. Chambers: If it is left like that, it never can be approximated.

The Master: I don't think it can be. 2144

Q. Now, Mr. Alrich, you have turned in a report on it, have you, from time to time?

A. I did. In the early years when that work was going on I remember making such report daily, and all such time spent by our engineering staff on their work was very carefully kept.

Q. Written reports turned in?

A. They were.

Q. Turned in to Mr. Morris?

A. They were turned in to his predecessor and Mr. Morris.

Q. And then in later years I suppose it was more 2145
infrequently that you went there on work of that kind; is that correct?

A. Less frequently than when the coal gas plant was being built, and later, when the water gas plant was being built there. It would depend upon the construction activities going on on the property how frequently I went there.

The Master: Do I understand, Mr. Alrich,

2146 that in later years you were not so careful to make reports as to the time spent on the Astoria plant? You said at the beginning there were daily reports, evidently with a good deal of care. I get the impression that later on there was not so much attention given to those reports.

The Witness: Speaking merely of the attention I gave it, I have not reported the time spent in the same petty detail that I did in earlier years.

Q. Why was that?

A. I believe that is some result of the company's
2147 method of charging.

Q. You were not called on for the same form of daily report in later years as you were in previous years?

A. I was not. They charge all the time spent on the company's work; that is, spent on the Astoria Company's work.

By Mr. O'Brien:

Q. They charge it still?

A. They do.

By the Master:

Q. What do you know about that, Mr. Alrich?
2148 You don't keep their books, do you?

A. I do not. They have an accounting method there that takes care of it.

Q. Did you ever see it?

A. No.

Q. Why do you testify about things that you don't know anything about?

A. I am trying to assist him.

Q. You are not assisting anybody when you tell

s about something you don't know anything about 2149
t all, just what your surmise is?

Mr. Ransom: That is the difficulty of interrogating this witness.

Mr. O'Brien: Just hold on, the S. O. S. didn't go up.

The Master: The next question.

Mr. O'Brien: I am studying the witness' psychology.

The Master: I hope you are a good student.

By Mr. O'Brien:

Q. Mr. Alrich, they have a system of keeping a record of a man's time? 2150

The Master: I will not allow it, because he doesn't know what their records are.

Mr. O'Brien: You will not allow that question?

The Master: No. He doesn't know what their accounting system is.

Mr. O'Brien: I take an exception. He has stated under oath that they keep a record.

The Master: And I brought out the fact that he doesn't know what he is talking about, except what he surmises from the fact that reports have been called for. He surmises that they do charge it. There must be better proof 2151
than that.

Q. Do you mean in later years that you did not turn in the same precise written report that you did formerly?

A. I mean that, yes.

Q. It is an oral report now, is it?

A. Yes.

2152 Q. And you are expected to do it from day to day?

A. No.

Q. From week to week?

A. No.

Q. From month to month?

A. No.

Q. Is it left to you or is it left to Mr. Morris when you meet in conversation casually to report the time you spent over there?

A. The best statement I can make is that from time to time Mr. Morris confers with his staff on that question.

2153 Q. And then you lump the amount, do you, that is to be deducted from your salary as an employee of the complainant company?

A. I don't know what he does.

Q. Well, when you are making your report of that, how is it put to him? When he gets his engineers around, as you say, and talks with them about it, how do you put it to him?

By the Master:

Q. What in general is the form of the statement that you make?

A. I estimate how many days in the period in respect of which he is making inquiries I have de-
2154 voted to the work of the Astoria Light, Heat & Power Company.

Q. Or any other company?

A. Or any other company in respect of which he may be making inquiries.

Q. How frequently are those sessions?

A. Very irregular.

By Mr. O'Brien:

Q. How much time during the last six months

have you put in over there and have you reported to 2155
Mr. Morris?

A. I don't remember how much time I have been at Astoria the last six months.

Q. Can't you approximate it?

A. I would not attempt it.

Q. Your memory is failing again?

The Master: That will not be allowed.

Q. Why can't you approximate it?

A. Because I have not at this moment enough recollection of the frequency of my visits, or how long I remained there on each such occasion, to enable me to do it. An estimate must be made from factors, and I haven't the factors before me. 2156

Q. Well, were you there three months?

The Master: What do you mean, three months?

Q. Did you spend any part of three months there?

The Master: The last three months, you mean?

A. Yes, I have been there in the last three months several times.

Q. Were you there all told five days or ten days or thirty days in the last six months?

A. It would be less than—you mean the total 2157
number of hours, whether it would be seventy hours or eighty hours?

Q. Just as if it was reported by a plumber?

The Master: Well I hardly think that is a fair basis of a plumber's bill.

Q. How many hours would it be, Mr. Alrich?

A. I would say that in six months I probably spent over there thirty hours, which a plumber

2158 would probably report as one hundred and twenty hours.

Q. You haven't much regard for plumbers?

A. I have not.

The Master: Don't answer that.

Q. When did you last report to Mr. Morris on that?

A. I don't remember.

Q. Did you report to him in the last six months on it?

A. I don't think I did.

Q. What work have you done for the Standard in the last seven or eight years?

2159 A. Say eight years, would take it back to 1916. Building a gas holder at their works at 115th Street and Pleasant Avenue.

Q. About what year?

A. 1916. I am pretty sure that there has been other work, but it does not come to me now; I haven't a memorandum here.

By the Master:

Q. No very large piece of work?

A. No, it probably would not be noticeable, but I am pretty sure there has been other work.

By Mr. O'Brien:

2160 Q. How long did it take to put that holder up?

A. I don't remember.

Q. Did you draw the plans for the iron and steel work and foundations?

A. No. I went over them and approved them afterwards.

Q. Who drew them up?

A. The Bartlett-Hayward Company.

Q. Do you know why the company didn't draw their own plans upon that occasion? 2161

A. No, I don't know what motives moved the executives at that time.

Q. About how much time, if you can say, did you spend on that work?

A. I haven't an idea.

Q. You could tell how long it took to build it, couldn't you?

A. I don't remember how long that was; it was not a large holder.

Q. Would you say six months?

A. I don't think it took six months; probably four or five months. 2162

Q. Then you were there perhaps a good portion of four or five months while it was being erected?

A. I was there frequently during four or five months, and daily during a certain part of the time.

Q. How much time during the last seven or eight years have you put in on the New Amsterdam Company's plant at Ravenswood?

A. That would be somewhat more time. There has been a lot of work done there in that time. I could not undertake to estimate.

Q. What were the big jobs that were done there in the last ten years? 2163

A. That goes back to 1909. In ten years we have put in some multitubular condensers.

Q. You don't call them multitudinous, do you?

The Master: Multitubular.

Q. You differ from the gas company's employee who calls it a multitudinous condenser?

The Master: Don't answer that.

2164 Q. You call it a multitubular, Mr. Alrich?

The Master: He is calling it what it is, a multitubular. He is not charged with what somebody else calls it.

A. We have rebuilt the boiler house, installed some new boilers; we have built a cinder pocket, reinforced concrete construction, with a skip hoist; we have put in additional belt conveyors for the handling of coal. There has been a lot of miscellaneous construction work there of small items.

Q. Has such construction work been done in the last three years?

2165 A. Much of what I just described was done in 1918.

Q. During the wartime period?

A. In the wartime, 1917 and 1918.

Q. You spent a good part of the time supervising that work?

A. I was there frequently. I would not undertake to state it in terms of time.

Q. Sometimes from day to day?

A. There were times when I was there daily.

Q. And that period would extend over how many months, if you remember?

2166 A. I should say that I was only there daily for a few weeks.

Q. Then you would go there two or three times a week?

A. Yes.

Q. You reported on all of this work to Mr. Morris, did you?

A. I did.

Q. In the way you have already indicated as to other companies?

A. As far as I remember, I did, yes. 2167

Q. What is the capacity of the New Amsterdam plant, if you recall?

A. Well, the capacity of the plant is a matter for demonstration. I don't know what the capacity is.

Q. What has been their output there during the last two or three years?

A. I don't know.

Q. Can you approximate it?

A. I cannot.

By the Master:

Q. What is it rated at, do you know?

A. I don't know what the operating staff rates the plant at. 2168

By Mr. O'Brien:

Q. Is the New Amsterdam plant connected up with the Astoria plant by mains?

A. It is.

Q. And they receive gas from Astoria?

A. I don't know.

Q. Do they deliver gas to Astoria?

A. I do not know.

Mr. Ransom: I object to the questions. It is a wholly immaterial line of inquiry.

The Master: He says he doesn't know.

Q. Do you know the connections as far as the 2169 delivery of gas is concerned, Mr. Alrich, between the Astoria plant and various stations in the city?

Mr. Ransom: I object to the question as indefinite; it does not convey any particular meaning, and does not relate to any particular company or any particular station.

The Witness: I don't understand it.

2170 Q. Let me ask you; do you know where the New Amsterdam holders at 58th street get their gas?

Mr. Ransom: I object to that as immaterial.

The Master: I will allow it as cross-examination.

Mr. Ransom: Exception.

A. No, I don't know.

Q. Did anybody ever tell you?

Mr. Ransom: I will object to the question as incompetent and immaterial.

The Master: Objection sustained.

Q. Do you know whether or not the 28th street line is connected up with any other holders?

2171 Mr. Ransom: Of what company?

Q. Of the complainant company?

A. I do not know.

Q. Will you say that you don't know that the 58th street holders connected up with the 65th street plant of the complainant company?

A. I do not know.

Q. You will say that you never saw any diagrams of mains connecting the 65th street holder of the complainant company with the 58th street holder of the New Amsterdam Company?

A. I have no recollection of ever having seen a

2172 diagram——

Q. I didn't ask you about your recollection; I asked you about what you know.

The Master: Oh, yes, you are asking him; you are asking him his recollection of a fact, and the witness properly states that he has never seen a diagram or map——

A. Diagram or map of any kind showing such a connection.

The Master: I want to make sure that we are not splitting hairs or evading the question. 2173

Q. Did you ever make any repairs around the 58th street holder?

A. I have.

Q. What were they?

A. I do not remember the details. I have worked on the repairing of those holders.

Q. Did you ever make any drawings of mains connected with the 58th street holder?

A. I did not.

Q. Did you ever make any drawings of the governor house in the 58th street holder? 2174

A. I did not.

Q. Have you ever been in the governor house of the 58th Street holder?

A. I have.

The Master: What is that, the New Amsterdam holder?

Mr. O'Brien: The New Amsterdam holder, yes.

Q. Will you state that you do not know now whether or not the mains of that holder are connected to the 65th Street holder?

The Master: That question is not allowed. It has already been asked and answered. 2175

Mr. O'Brien: Well, in view of the attitude taken by the witness, your Honor, in literally construing a question, I have to ask him a question in half a dozen different forms.

The Master: And just so far as you are trying to elicit a fact which has not been fully and fairly answered, I will allow it. But I think

2176 this question has been fully and fairly answered. There can be no mistake about the witness' testimony that he does not know.

Q. Where does the gas come to the 42nd Street holder from?

A. Referring to the holders at the West 42nd Street station of the Consolidated Gas Company?

Q. Yes, sir.

A. I haven't the ghost of an idea.

Q. You haven't the ghost of an idea where that gas comes from?

A. Except so far as it came from the plant when it was in operation.

2177 Q. You never heard it discussed?

A. I did not.

Q. You never heard any orders given with respect to the delivery of gas to that holder from other places?

A. I do not recall having heard any such instructions or discussions that now clings in my memory.

Q. Do you think your memory could be refreshed?

A. If some one has a memorandum of such an occasion why I would concede the truth of it.

Q. You would?

A. If produced, yes.

2178 Q. Suppose I read to you an extract from the records of that office, that 42nd Street office which you say you investigated a short time ago. Suppose I read to you the records of the pumping there that indicates that they pumped gas in there from the 65th Street holder?

A. That would not be any inquiry by me.

The Master: It would not refresh his recollection.

The Witness: It would not be any inquiry made by me.

Q. Would it refresh your memory? 2179

A. No.

Q. Would it bring back anything that might recall your knowledge of the connections between these different holders of these different plants?

A. No.

Q. Have you been in the governor house there at 42nd Street lately?

A. Within thirty days. I don't know whether you call that lately or not.

Q. Did you look over any of the books?

A. No.

Q. Did you look over any of the charts on the 2180
wall of the governor house?

A. Never.

Q. Do you know whether there are any there or not?

A. I do not.

Q. How long did it take you to go through there and check up the property of that plant at 42nd Street?

A. When?

Q. When you went there to prepare to testify in this case?

A. I didn't go there for such purpose.

Q. You have never gone there to check up in 2181
order to prepare for this case?

A. No.

Q. What were you there for the last time you were there?

A. I do not recall.

Q. You don't know what your purpose was there?

A. No.

Q. How long did you spend there?

2182 A. I don't remember.

Q. Whom did you meet?

A. A clerk in the office whose name I don't know.

Q. Who is the superintendent of that station?

A. A man named Kellogg.

Q. Was he there then?

A. No.

Q. Who was the clerk?

A. I don't know his name.

Q. Was there anybody else in the plant at that time?

A. Yes.

Q. How many people were there at the time
2183 you were there?

A. I don't remember.

Q. Well, approximate it. Were there five?

A. I distinctly remember having seen seven.

Q. Who were they?

A. I don't know.

Q. I mean what was their business. You know what they were busy doing, don't you?

A. There were three men working down in the blacksmith shop, and there were two men in the purifier house——

Q. What were they doing there?

2184 A. I don't know.

Q. Were they standing still?

A. I don't remember what they were doing at all.

Q. Were they doing anything?

A. I don't know.

Q. The purifier boxes were not working?

A. No.

Q. Your answer is no, isn't it?

A. Yes. 2185

Q. And you cannot recall what they were doing; were they watchmen?

A. I don't know, they didn't interest me at all.

By the Master:

Q. Where were the other two that you remember seeing?

A. They were cleaning out some rubbish down in the vault that I have described as being between the two retort houses.

By Mr. O'Brien:

Q. When did the fire take place there?

A. In 1917; I think February, 1917.

Q. How much of the plant was burned? 2186

A. The southerly coal shed and the trestle work which connected it with the dock structure.

Q. Now, you testified that there was a lot of coal, thousands of tons of coal in the coal shed. Is your memory fresh on that?

A. My memory is not fresh on the exact language I used in the testimony. As I recall, I said there were some thousands of tons in the northerly coal shed, and I think that is correct.

Q. Will you go there this afternoon and refresh your memory again?

Mr. Ransom: I am afraid he will be on the 2187 stand this afternoon.

Q. When were you last there?

A. To look at the coal?

Q. To look at the coal shed.

A. I don't remember. I didn't look at it the last time I was there.

Q. Well, when you were here testifying as to these

2188 thousands of tons of coal in the coal shed, what period did you have in mind?

A. That answer was based on my best recollection of conditions in the spring.

Q. In the spring of this year?

A. Yes.

Q. That was your best recollection, was it?

A. Yes.

Q. How many thousands of tons would your best recollection report to have been there at that time?

A. Why, I should say probably about three thousand tons, was my impression of what was there.

2189 Q. That would represent your impression?

A. Yes.

Q. They haven't used any since?

A. I don't know.

Q. Well, you know the plant is not running, don't you?

A. I don't know whether they have used any coal since or not.

Q. You know that they have not used any in gas making, don't you, since?

A. No, I don't know; they might have had one of their boilers fired up and used some of their

2190 coal; I don't know.

Q. If that is the attitude you are going to assume with regard to this——

The Master: Don't answer that. The attitude speaks for itself. His testimony is his attitude.

Q. Now, see if I have a fair description of this plant, Mr. Alrich. You go in the office there where there are three meters, large gas meters, and you

pass out on the west down through the yard, you 2191
pass by retort house No. 1. How many benches has
that got?

A. Sixty.

Q. Are you sure of that?

A. Yes.

Q. And that is a building about 200 feet long, is
it?

A. I think so, maybe more.

Q. Then you come to the coal shed that was partly
on fire you referred to?

A. Not immediately west of the end of the retort
house.

Q. What is between that and the retort house? 2192

A. The building that was burned is not the coal
shed opposite the end of the retort house.

Q. What is it?

A. The coal shed which was not burned is oppo-
site the end of retort house No. 1.

Q. Suppose I refresh your memory. Don't you
know that the coal shed on 42nd street was partly
burned too?

A. No, I don't know that that coal shed was
partly burned.

Q. What do you call that shed that is immedi-
ately west of retort house No. 1? 2193

A. Coal shed No. 1.

Q. Is that the place where you said you saw
some coal?

A. I didn't say I saw some coal. It is the place
where it is my recollection there was some coal
back in the spring.

Q. Your recollection then fixes the coal in that
particular shed, does it?

2194 A. Yes.

Q. And then there is a big coal pile outside, with the trestle work; is that correct?

A. West of that coal shed?

Q. Yes.

A. I do not recall; there may have been some coal there.

Q. What makes your memory a little bit cloudy on this?

The Master: You need not answer that.

Q. You were there a month or two ago, were you not?

2195 A. Yes, I was there less than a month or two ago.

Q. On the south of the runway that runs down from the office out toward the shop, stands the brick walls of a structure that was burned, so far as its woodwork is concerned, is that correct?

A. That is correct.

Q. And these four walls, with another wall running up through the center, still stand there?

A. That is correct.

Q. There is nothing in between the walls?

A. No.

Q. Nothing on the floor except a few pieces here
2196 and there of broken equipment?

A. I think the floor planking is still in place.

Q. And these walls stand up like the Coliseum?

By the Master:

Q. Did you ever see the Coliseum?

A. Never.

The Master: Then don't answer.

Mr. Ransom: Do you mean Chicago or Rome?

The Master: I assume he means the Roman Coliseum.

By Mr. O'Brien:

2197

Q. There is no present use of that particular space within those walls?

A. I do not know; it is not used.

Q. It is not used?

A. If there is nothing in there, why it is not used.

Q. And these walls are how thick?

A. I don't recall. I think those side walls are 24 inches thick.

Q. Was that structure originally built, if you know, for keeping coal, storing coal?

A. I do not know.

Q. Do you recall what use it was put to when 2198
you first went with the company?

A. I do.

Q. Was it storing coal then?

A. It was.

Q. And all of it was used for that purpose?

A. Upstairs there was a carpenter shop. There was what I might describe as a separate building built on a platform, at the westerly end, in which there was a carpenter shop.

Q. Do you know why they built a structure with these 24 inch brick walls, and then another on the four sides of the structure, and another 24 inch wall 2199
running up through the middle of that, to store coal?

A. You are asking me for my interpretation of the intention?

The Master: He is asking whether you know why it was done. Do you know?

The Witness: I don't know why. I have my interpretation, if that is what he wants.

2200 Q. Do you know why?

A. No, I do not know why.

Q. Now, there is a retort house No. 2 and a retort house No. 3?

A. Yes.

Q. And they are south of retort house No. 1, which runs along 42nd Street? In other words, they are over on the 41st Street side?

A. They are.

Q. What are these two retort houses, what were they used for?

A. Manufacturing coal gas, and some oil gas.

Q. One of them was used for oil gas, wasn't it?

2201 A. In part.

Q. And in part for condensers?

A. That is an extension of this same building you are describing?

Q. Yes.

A. Another part that you had not previously mentioned.

Q. So, they were used in connection with the coal gas plant there located?

A. They were.

Q. And the engine house was so used?

A. Yes.

2202 Q. And the exhausters?

A. Yes.

Q. There were three?

A. Three exhausters.

Q. What kind of an engine was that in the engine house, Worthington?

A. No, Greenfield engine.

Q. How old is that?

A. I do not recall.

Q. Downstairs in the cellar there are three 2203
boilers?

A. That is in the vault.

Q. Well, down below in the subterranean part of
it.

A. Not under the building, but in the vault be-
tween the two buildings.

Q. There is a vault that runs along under the
whole thing for 400 or 500 feet?

A. I don't think it is as much as 500 feet.

Q. Well, 300 feet. We won't discuss that.

A. A long vault, yes.

Q. Built like the Catacombs?

A. Yes. 2204

By the Master:

Q. Have you ever seen the Catacombs?

A. No.

The Master: Then don't compare it with the Catacombs.

By Mr. O'Brien:

Q. Mr. Alrich, there were three boilers beneath, in this subterranean part of the plant?

A. There are.

Q. And these boilers are what type?

A. They are the internally fired type of boiler.

Q. What do you mean by that? 2205

A. That the boiler has an internal flue, which flue is surrounded by water; that is, the fire chamber is within the water.

Q. It is what you would call an antiquated type, isn't it?

A. It most surely is not.

Q. Don't they look like Fulton's first invention?

2206 A. They surely do not. They are what they us
in the United States Navy.

By the Master:

Q. They are now being used in the United State
Navy?

A. That type of boiler is the standard marin
practice.

By Mr. O'Brien:

Q. On what ships?

A. Everything. Wherever you find ships, un
less they are of very small size, they require a spe
cial type on a torpedo boat or small boat——

Q. Don't you know as a matter of fact that th
2207 B. & W. boilers have been pretty much adopted b
the navy?

A. For small units.

Q. You mean these are used for large units?

A. These are used for the larger boats.

Q. What boats do you know that any of thi
type of boilers are on?

A. You could name most any of the present-da
large ships.

Q. I am asking you about this with the Alric
precision. Do you know of any boats within you
knowledge equipped with this type of boiler?

2208 A. Only my general knowledge as an engine
that the Scotch type of boiler is the boiler that i
used principally in marine practice.

Q. You call this a Scotch type?

A. Scotch type of boiler.

Q. There is a condenser in there that is an En
lish condenser, in the condenser house?

A. There is.

Q. And it is quite an old piece of equipment, 2209
isn't it?
A. I don't know what you mean by old.
Q. Would you call something 40 years old pretty
old?
A. Well, it would depend on whether it was a
monument——
The Master: There you go again.
Q. I am talking about machinery.
The Master: Find out how old this piece of
machinery is.
Q. Do you know how old that English condenser
is?
2210
A. I do not.
By the Master:
Q. Approximately, can you give it to us?
A. No.
Q. Can you give us any judgment about it?
A. No.
By Mr. O'Brien:
Q. Do you know when these boilers were put in,
or how old they are?
A. No.
Q. Do you know where they were made?
A. I do.
Q. Where? 2211
A. At the Continental Iron Works in Brooklyn.
Q. How do you know that, just from reading it
on the plate?
A. That is my principal knowledge, yes.
Q. Have you any other knowledge about it?
A. I may have been told by the superintendent
of the plant who was there when they were put in.
He may also have communicated the fact to me.

2212 Q. Well, you don't recall then how old they are, you don't recall the date on the boilers?

A. I don't recall the date on the boilers even.

Q. You don't recall that?

A. No.

By the Master:

Q. Mr. Alrich, this machinery that Mr. O'Brien has been talking about, as to the age of it, has been there during a good many years?

A. Ever since I have been employed by the company.

Q. And it is quite apparent from looking at them that they have been there a good many years, and
2213 perhaps quite some years before you went there?

A. I don't think so, in the case of the boilers, and I don't think that is true of the rotary washer to which he refers, that was imported from England.

Q. So that the best information that you can give us is that they were there when you went there with the company?

A. That is correct.

Q. And you don't think they were much older than that?

A. I don't think so.

The Master: That gives us some idea of the
2214 witness' judgment about it. He may be all wrong, or he may be right about it, but that is his testimony.

By Mr. O'Brien:

Q. Have you ever drawn plans to repair the benches in any of the retort houses?

A. At the 42nd Street station?

Q. Yes.

A. No.

Q. Do you know whether they have ever been re- 2215
paired since you came with the company?

A. I do.

By the Master:

Q. Let me ask, just so I can get it clear in my mind, what is this that is referred to as a bench, or benches?

A. A bench is the technical description of one unit of the primary coal gas generator, which is a group of retorts enclosed within brick walls, with an arch above them, and a furnace below for generating the heat for heating up the retorts.

Q. Is there a separate furnace under each 2216
bench?

A. Under each bench is a separate furnace.

Q. In other words, it is a sort of row of little furnaces, which generate the gas?

A. The furnaces heat the retort, and in the retort the coal is carbonized.

Q. And each one of these sections is called a bench?

A. Each separate group of retorts is called a bench.

By Mr. O'Brien:

Q. You sometimes have six in a group and sometimes seven? 2217

A. That is correct.

By the Master:

Q. I understood that in this particular retort house, this large one, there are some sixty of these benches?

A. There are.

Q. And they are constructed in groups of six or seven, are they?

2218 A. There are twenty in a range. We call groups of benches ranges, and in retort house No. 1, to which Mr. O'Brien refers, there are three ranges of twenty benches each, standing back to back, so when facing them one sees ten benches in a range.

By Mr. O'Brien:

Q. In what respect, if you know, have they been repaired since you went with the company?

A. They have been entirely reset in retort house No. 1, and the iron work extensively replaced and overhauled.

By the Master:

Q. In that same retort house?

2219 A. In that same retort house.

By Mr. O'Brien:

Q. How do you know that?

A. I saw it going on.

Q. And the work was done by a contractor or the company?

A. By the company.

Q. Did you draw the plans for it?

A. I did not.

Q. Why didn't you? You say you had charge of all the construction work.

A. That was repair work.

2220 Q. Then repair work was out of your line?

A. Out of my line unless directed to perform such work.

Q. Have you ever performed it? Don't get to quibbling on the matter. Don't you do repair work also?

A. When told to, yes.

Q. Well, didn't you say that you had no connec

tion with that because it was repair work; is that 2221
what you said?

A. I didn't do that, because that was repair work.

By the Master:

Q. And you were not called upon to do it?

A. I was not called on to do it.

By Mr. O'Brien:

Q. Is the inference from what you say that all of the new construction work you have had to do with?

A. I don't understand that.

(Question read by stenographer.)

A. I don't understand your question.

Q. I will put it in a simpler form. Do you su- 2222
pervise the drawing of the plans for all new construction work of the complainant company?

A. I have a finger in almost all of the new construction work.

Q. A finger in?

A. Yes.

Q. Is the same true of repair work?

A. It is not.

Q. Then you are only called in on repair work occasionally; is that it?

A. From time to time, as my superiors see fit to assign me to such work. 2223

Q. This repair work, you say, was done when?

A. There was a lot of it done in 1916.

Q. Can you state how much?

A. I remember their thoroughly overhauling those sixty benches in No. 1 house.

Q. Thoroughly overhauling them?

A. Yes, sir.

2224 Q. Plans filed in the Building Department of the City, do you know?

A. I know they were not. They would have been thrown out of the window if we had taken them there.

The Master: Yes, and I agree with the witness that that is so; and I think Mr. O'Brien does too. It is not construction work. They do not require plans for that, ranges, and such things as he has described.

Mr. O'Brien: Here is a brick structure that runs ten feet, assuming that the basement is ten feet, a brick structure starting with the
2225 foundation on which it stands, running up the height of the basement, and then in the retort house proper, a distance of some thirty feet——

Q. Is that correct, Mr. Alrich?

A. You mean thirty feet above the floor?

Q. Yes.

A. No.

Q. Well, about twenty feet; how high would you say?

A. Probably about eighteen feet.

Q. Then they run along, each side runs back a
2226 distance of how many feet, fifteen or twenty?

A. You mean the depth through?

Q. Yes.

A. Twenty feet.

Q. And there are two rows in this retort house?

A. Yes, back to back.

Q. Now, you say they were entirely reconstructed?

A. The settings were entirely reconstructed.

Q. And that if you did file them in the building 2227
department the plans would have been thrown out of the window?

A. They probably would, or put in the waste basket. They have nothing to do with apparatus.

Q. You think they have not?

A. I know they have not.

The Master: We have had enough on this, Mr. O'Brien.

Q. Now, will you refresh your memory on that before you come again?

A. I don't need to.

Q. Down toward the street, where the city, the 2228
public have their right of way, you have a yard with coal in it?

A. You mean east of the right of way?

Q. Yes.

A. There is a yard there, I don't now distinctly recall any coal there, the last time I was there, although there may have been some coal in that yard just south of 42nd street; I am not sure.

Q. I will tell you now that that is where the coal is, and it is not in any shed, that is where the pile of coal is.

The Master: Don't tell the witness anything, just ask him questions. 2229

Q. Now, you have south of the runway extending out to that street which you term a right-of-way, you have an open yard, haven't you, immediately west of the coal shed that was burned?

A. Yes.

Q. And that is now unused?

A. It is.

2230 Q. And there is a little wooden house there, wooden shed?

A. Yes.

Q. And that was used for what purpose?

A. There is a workman's toilet there.

Q. No, I don't think this was the house I mean. I mean the house that Mr. Kellogg calls the deodorizing house.

A. Oh, yes, the deodorizer.

Q. Do you recall that?

A. I do. I think it was burned in the fire.

Q. No, that is still standing, a little shed there
2231 right close to the right-of-way. Now, across the right-of-way you get on to the bulkhead property of the complainant company?

A. Yes.

Q. That is correct?

A. Yes.

Q. And inside the fence, which is the western boundary of that right-of-way, you have located there how many tanks for the storage of oil?

A. I think there are eight below ground and two above ground, and then there are two tanks, one for tar and one for ammonia.

Q. How do you know the number below ground?

2232 A. I dug them up once.

Q. How long ago?

A. 1913.

Q. Why did you dig them up?

A. To ascertain their condition.

Q. Had they been out of order?

A. No.

Q. What occasioned your making such an investigation?

A. I was told by my superior to dig up the tanks and ascertain their condition. I did, and found them one hundred per cent. 2233

Q. Did you uncover them all?

A. My recollection is we dug a trench along both ends, and along the side; in other words, we dug a hollow square around there. That is my recollection.

Q. Well, these eight tanks are the tanks they used to hold the oil, and the other tanks standing above, hold the ammonia and tar. Is that right?

A. The underground tanks hold the oil and I think that the two similar tanks that are to the east of the underground tanks, overground, were used for gas oil, too, I am not quite clear as to that. 2234

Q. Well, next to those two tanks you have just mentioned is a little shed with several engines in it?

A. You mean south near the bulkhead?

Q. I mean west, just on the edge of the bulkhead?

A. Yes, pumps.

Q. Pumps?

A. Yes.

Q. Those pumps are of what make?

A. I don't recall. 2235

Q. How many of them do you remember being here?

A. My recollection is there were two. I may be wrong, I have no memorandum here, and you are asking me about pretty small details.

Q. I know, but you have given us some details in the course of your examination.

The Master: Go on to the next question.

2236 Q. Were you told that you were simply to give us a birds-eye view of this testimony, when you were asked to testify?

The Master: He has already testified to what he was told. The next question.

Q. Will you state that you don't know exactly whether there were two or three there?

A. I don't know, I don't remember.

Q. Well, on the end of the dock then there is what kind of a structure?

A. On the dock?

Q. On the dock, yes.

2237 A. There is a second deck, with tracks on the upper deck, so that narrow gauge cars can be run along on that deck after they have been filled with coal at the pier, and run into the coal shed.

Q. And down on the dock proper they have an engine room?

A. They have, and there is a boiler in there.

Q. A boiler, one of this Scotch type, is it not?

A. I think so, yes.

Q. Don't you remember?

A. That is my recollection. I think you are right, Mr. O'Brien, it is an internally fired boiler.

Q. Made by the Continental Company?

2238 A. Yes.

Q. You judge that because you see the name on the outside?

A. No, the type of boiler, that particular proportion of boiler.

Q. Is the Continental Iron Works doing business now?

A. They are.

Q. Are they making boilers still?

A. I guess so. The last time I was there I am 2239
pretty sure there were some in the shop.

Q. When was that?

A. 1913.

Q. Then what else have you got there in the shape of equipment in that room?

A. Why, I think there is a boiler feed pump in there, the engine you have already referred to. You mean within that boiler room?

Q. Yes.

A. Within that boiler room or on the dock at all?

Q. I mean on the dock proper. You have there 2240
a boiler and what else?

A. Outside of the boiler room enclosure, and around three sides of the pier is the machinery for operating the derricks above, lifting the tubs.

Q. That practically constitutes all the equipment that there is on the dock?

A. That is the most of it, the most important part. The derrick to operate the machinery, the engine, boiler and boiler feed pumps.

Q. What kind of an engine is that?

A. I don't remember.

Q. Are you sure there is an engine there?

A. There was the last time I was there; it may 2241
have been removed.

Q. You are positive of that, are you, that there is an engine there?

A. The last time I was in that room there was an engine there.

Q. How long ago is that?

A. Oh, I don't remember; it might be more than a year.

2242 Q. Now you testified that in the winter of 1917-18 this plant was used?

A. Yes.

Q. During the stress of the winter months?

A. I did not refer to any stress of winter months.

Q. Well, I am using that term myself, but you meant it was during the stress of the winter months?

A. I didn't mean that at all. I simply remember that the plant was operated in that period of time. I stated my general recollection.

Q. And it was opened up on New Year's eve, wasn't it?

2243 A. I don't remember.

Q. Will you state whether it extended through February?

A. I don't remember.

Q. Then you are not up on the dates precisely as to just how long the plant was running in the winter of 1917-18?

A. I don't pretend to be.

Q. Now, the winter of 1917-18 was an unusually severe one?

A. Yes, it was.

Q. You recall that it was unprecedented in the

2244 records of the weather bureau of this country?

A. I don't know what the weather bureau thinks. I remember it was a very hard winter.

Q. In your memory you never encountered such a winter, did you?

The Master: What is the point of all that? I have allowed a couple of questions on it, but I am not going to allow any more. The Court

will take judicial notice of the fact that it was 2245
an extremely severe winter.

Mr. O'Brien: Well, worse than that.

The Master: Yes, it was worse than that. What is the point?

Mr. O'Brien: Without a precedent in the history of the country.

The Master: All right. What is the point?

Q. How old are you, Mr. Alrich?

The Master: That is ruled out.

Q. If you know, how long before your time was that the plant was working?

The Master: Before what time?

Q. Prior to the winter of 1917-18, if you know, 2246
when was that plant used for making gas?

A. I don't remember.

By the Master:

Q. Had the manufacture of gas been suspended there prior to the winter of 1917-18?

A. For a time. What the interval was I do not now remember.

By Mr. O'Brien:

Q. Do you know how long the plant was running, if it ran at all, in the year 1916?

A. I don't remember.

Q. Do you know whether or not the plant made 2247
any gas in 1915?

A. I don't remember.

Q. Do you know or have you any means of finding out whether the plant made any gas in 1914?

A. Why, I suppose I could find out, I suppose the company has records.

Q. Do you happen to know?

A. I do not know.

2248 Q. Didn't your business take you there during those years?

A. In every year I was there.

Q. You were there doing some kind of construction work, supervisory work?

A. I went there, but not in connection with any construction work as I recall.

Q. Then your recollection does not report any picture of the work going on there?

A. It does not.

Q. Now, you have been in the governor house?

A. You mean in the office, or the governor house between the holders?

2249 Q. Between the holders?

A. Yes.

Q. On 11th Avenue there is in that yard space how many holders?

A. Four.

Q. Four holders?

A. Yes.

Q. And those holders lie there dormant, do they not?

A. Well, I don't know what you mean by dormant. There is gas in them.

Q. Didn't you testify that there was only one of

2250 them that there was any gas in?

A. I said I knew that one of them was inflated.

Q. How much of it was inflated?

A. I think it had the second section up when I observed it the last time I was going through 42d Street.

Q. You were just going through?

A. Yes.

Q. You were not making an examination of the plant you mean? 2251

A. At the time I noted that the holder was inflated, no.

Q. You were on your way to the ferry?

A. No.

Q. Were you on a visit to these works?

A. No, I was going to 12th Avenue, I was in an automobile and I was going to turn up 12th avenue.

Q. How could you see it over the brick wall?

A. I could.

Q. How high above the brick wall was it?

A. Oh, it was considerably above the brick wall. I was on the north side of the street in an automobile, and I could see clearly over the fence that the holder was inflated. 2252

By the Master:

Q. About how high from the ground does the second section begin?

A. Well, the tank, if your Honor please, is below ground in those holders, and so if one section was fully inflated, it could be seen by one situated as I was.

Q. What I am trying to get at is, when the first section is fully inflated, how high up from the level of the street would it be? 2253

A. Twenty feet or 25 feet.

Q. That fence is about 12 or 14 feet high?

A. About 12 feet, I judge.

By Mr. O'Brien:

Q. In between the holders there is this small building called the governor house?

A. Yes, an octagonal building, as I recall.

Q. Yes, you did call that octagonal. It has the

2254 governor equipment for controlling the supply of gas from outside places?

A. Yes.

Q. To the several holders there located?

A. Yes.

Q. And where is the gas received from that goes into these holders?

A. At the present time?

Q. Yes.

A. I don't know.

Q. Well, at any time?

The Master: Mr. O'Brien, I think that Mr Chambers very fully and exhaustively inter

2255 rogated the witness as to his knowledge of the place from whence and the places to which ga went, came from and went to the various holders. I do not think I will permit any further cross examination upon that.

Mr. O'Brien: Well, I have a few question to ask, your Honor.

The Master: I will state in that connectio the impression on my mind is very clear tha the witness' testimony in effect is that he di not know anything about the gas operation but that it was apparent that from connection

2256 made, that gas comes to and from these various holders, from other works of the company, an perhaps from other gas works of other com panies. Is that correct?

The Witness: That is correct.

The Master: That is pretty clearly on th record, and you will simply have him repea ing over and over again as to each holder th

he does not know where the gas comes from or 2257
goes to.

Mr. O'Brien: There are some few questions, if your Honor will indulge me. I won't overstep the bounds of reasonableness in my questions along that line.

The Master: Go ahead.

Mr. O'Brien: I recall the witness' memory was pretty fresh on certain mains like that 48 inch main that ran from the tunnel up to Sedgwick avenue.

The Master: After all, Mr. O'Brien, there is always a point about the witness' testimony 2258
and the cross examination with reference to it, isn't there? The point we are now discussing and you are asking about is that gas comes to these holders from other gas works; isn't that so?

Mr. O'Brien: Precisely.

The Master: The witness has said he does not know, he cannot tell, and it is simply an inference from his testimony that I have drawn, that that is so.

Mr. O'Brien: Well, I think if the witness' memory is a bit refreshed, he will very likely tell us the whole story. 2259

The Master: Go ahead, we will see how far it develops.

Mr. O'Brien: I won't go too far with that, your Honor.

The Master: I do not want to go all over the same ground again.

Q. Mr. Alrich, you have talked with the people on the plant there on the occasion of your visits?

2260 A. Yes.

Q. And you have seen the diagrams on the walls?

A. I don't recall there is a diagram there. I think there was one upstairs in the superintendent's office; upstairs in the corner I think there is one.

Q. You have been in and around all the construction work of the company since you have been connected with this engineering branch?

A. Yes.

Q. You have been on all the plants, and there is not any plant the company has, or any of its subsidiaries have that you have not been on in connection with your official work?

2261 A. I have been in all of the gas works in Manhattan and the Bronx and——

Q. You have done engineering work in connection with the foundation work and superstructures?

The Master: We have had all that. Now what is your question?

Q. Will you state, if you know, where the gas comes from to the 42nd street station?

The Master: At this time?

Mr. O'Brien: At this time.

A. I do not know.

2262 Q. At the time of your last visit?

A. I do not know.

Q. Is there anything that would make you believe it comes from Astoria through the 56th street holder?

Mr. Ransom: I object to the question.

The Master: I will let him answer this. I want Mr. O'Brien to bring out, if he can, t

fact that he is trying to develop. I do not 2263
think he can from this witness.

Mr. Ransom: We shall subsequently put on the stand a witness who will satisfy you and Mr. O'Brien——

The Master: Do not tell us what you are going to do.

A. What is the question?

Q. (Question repeated.)

A. Yes, there is something that would make me so believe.

Q. What is that?

Mr. Ransom: I object to the question on the grounds already stated. 2264

The Master: I will allow it.

Mr. Ransom: Exception.

A. The word of one situated to know.

Q. Have you ever heard anybody discuss that matter?

Mr. Ransom: I object to the question.

A. I don't recall.

Q. You do not recall?

A. No.

The Master: Now I think you gentlemen are at cross purposes again. As I understand the witness' testimony—— 2265

Q. Does any gas come to the——

The Master: Wait a minute, Mr. O'Brien, see if I understand this right. As I understand the witness' testimony as the result of something that has been told to him by somebody else he reaches the belief that gas does come to the 42nd Street holder from 65th Street and Astoria.

The Witness: That was not my answer.

2266 By the Master:

Q. What was your answer?

A. The question was, was there anything ——

Q. Do not tell me what the question was. Do you believe that gas comes from the Astoria plant through the 65th Street holder to the 42nd Street holder?

A. I don't know anything about it.

The Master: Now the next question.

By Mr. O'Brien:

Q. Do you know the outlets from the Astoria tunnel?

A. Yes.

2267 Q. What are they?

A. The forty-eight inch line.

Q. To where?

A. Through 134th Street and Morris Avenue in the Bronx to the Kingsbridge holder.

Q. And what other outlet?

A. And it connects with a line that goes down First Avenue to the 111th Street holders.

Q. And continues on down, does it?

A. I don't—I lose track of the line when you get past 111th Street, Mr. O'Brien. I do not think that forty-eight inch line goes ——

2268 Q. Does any main run down there to 58th Street?

A. I don't know a thing in the world about——

Q. Or 63rd Street?

A. I don't know anything more about that, Mr. O'Brien, than I know about the dentation of carnivorous animals.

Q. What do you mean by that?

The Master: We will take what he said for what it is worth. It means nothing.

Q. That would sum up, that dentation stuff, your knowledge of the rest of these mains? 2269

A. It would.

Mr. O'Brien: I think we will have to stop, then, your Honor.

The Master: Are you through with him?

Mr. O'Brien: No, with that branch of the inquiry.

The Master: I think I am going to stop you anyhow.

Mr. O'Brien: That stops us, that dentation. I beg to submit that counsel for the complainant would save a lot of time by just telling us these things and letting us know. We won't be twisting around—— 2270

The Master: We will get it before this case is finished. Ask your next question.

Q. The gas comes from 21st Street to 42nd Street; you know that?

A. No, I do not know that.

Q. Even on hearsay?

The Master: I won't take hearsay.

Mr. O'Brien: But what is the use of the witness trying to wrestle with me on this question. I want to say that it is incredible that he does not know that. 2271

The Master: I am going to rule very shortly that I am not going to permit any more questions about operation or mains, except within the scope of this man's work as construction engineer. I have been giving you very wide latitude; I have been giving Mr. Chambers very wide latitude. The witness has testified over and over again that all of these works are di-

2272 rectly or indirectly connected with pipes, so that it is quite possible that gas flows from one plant to another, from one works to another, that it flows back the other way, that they go out in different directions, but he does not know whether as a matter of fact they do or do not.

Mr. O'Brien: At least if we cannot get an answer we might expect from him we can bring out the fact. The witness is hostile, the witness is concealing something, and that will discredit his testimony.

The Master: Find out what he is concealing, what will discredit his testimony?

2273 Mr. O'Brien: My impression is if I can find out or bring out in half an hour what he knows, with his connection with the company since 1901, this witness must know it.

The Master: There is a limit to cross examination.

Mr. O'Brien: The man tells me he does not know that gas is pumped to the 42nd Street plant from the 21st Street plant, and I have a right to go after him and find out what he is concealing that is true.

The Master: Go ahead and let us see what

2274 you are trying to find out. What is your next question?

Q. What repairs have you ever drawn plans for in connection with the governor house at 42nd Street?

A. None.

Q. What plans, if any, have you ever drawn, or what construction have you ever had to do with,

hat pertained to the mains that run into 42nd 2275
Street?

A. None.

Q. Have you ever seen any mains uncovered hat run into 42nd Street?

A. Yes, I think I saw one in 41st Street uncovered.

Q. Do you know where it comes from?

A. I think it came from 11th Avenue and turned nto the plant.

Q. And it came from the south?

A. I don't know whether it came from the line ontinuing up 11th Avenue, or whether it came 2276
rom one direction only.

Q. Can you state, if you know, what other inlets here are from any corners or any streets into the 2nd Street station?

A. I think there is a connection in from 42nd Street. I am not sure, but I think there is a connection in.

Q. Can you recall ever having drawn any plans n connection with such an inlet?

A. I know that I never did draw any plans in onnection with such an inlet.

Q. Have you seen any drawing or representation r diagram that would picture the main system so 2277
ar as its connections with the 42nd Street plant re concerned?

A. I think there is such a diagram on the wall n the superintendent's office upstairs.

Q. And you recall having seen it?

A. Just in a general way that there is a diagram f that character up on the wall. I think it is in a rame.

2278 Q. And you have seen it there on the occasions of your visits to that place?

A. Yes.

Q. What was the old company called there?

A. The Metropolitan Gas Light Company.

Q. And did you use the telephone at all while you were in the governor house?

A. No.

Q. Do you recall seeing the list of telephone calls there—the private code that they use?

A. I don't remember it, no. I never used it.

Q. If you did see there these connections with the 21st Street house——

2279 Mr. Ransom: I object to this.

Q. (Continued) And the directions as to how it is to be reached——

The Master: You have not heard the question yet.

Q. (Continued.) Would you from your experience with the company draw the conclusion that the gas was furnished there?

Mr. Ransom: I object to the question as incompetent and improper.

The Master: Objection sustained.

Q. If Mr. Kellogg told you, Mr. Alrich—Mr.

2280 Kellogg has been with the company a long time, hasn't he?

A. Yes.

Q. Longer than you have been with it?

A. Yes.

Q. He is superintendent of that station?

A. He is.

Q. Is that his title?

A. It is.

Q. He knows something about the plant, doesn't 2281
he?

A. He does.

Q. He has put his days in at that plant?

The Master: That is enough.

Q. If he were to tell you that he gets his gas from the 65th Street holder or from Astoria by way of the 65th Street holder and to the 21st Street plant, would you believe it?

Mr. Ransom: One moment.

The Master: Objection sustained.

Mr. Ransom: I ask your Honor in the exercise of your discretion with respect to this witness, who has not undertaken or has not been 2282
asked in behalf of the complainant to testify as to these matters on which he is being interrogated, that the defendant be not permitted to undertake to prove what the defendants regard as their case in advance of any real start in the complainant's case.

The Master: I will permit him to go on.

Mr. Ransom: We shall produce witnesses on that.

The Master: As I indicated before, I think I shall have to draw the line on this cross-examination pretty soon. 2283

Mr. O'Brien: Your Honor, I have read over this record and the more I read the record the more I am compelled to get into the cross-examination of this witness. If counsel had adopted the suggestion of stating when he put the witness on the stand in general terms the scope of it we would not be compelled to get into a searching examination.

2284 Q. Have you ever seen the transit main pumping log?

A. No.

The Master: What is that?

Mr. O'Brien: It is a record they keep of the gas pumped in.

Q. Did you know that the company has at its stations such a book or record?

A. No.

Q. Did you ever know such a record by any other name?

A. No.

2285 Q. What kind of drum meters are in that office at 42nd Street?

A. I don't know. I think two of them are Hinman drum meters. They may all be, I am not sure.

Q. Do you know the name of the man who put them in?

A. As I recall they are American Meter Company meters.

Q. Do you know when they were installed?

A. The drums, the new drums, I think were put in about 1916, 1915 and 1916.

Q. How do you know that?

A. I saw the work going on.

2286 Q. How many were put in then?

A. I think they rebuilt two of the meters at that time.

Q. That is your memory, is it?

A. That is my memory, yes.

Q. That they rebuilt two meters?

A. Yes.

Q. In 1916?

A. And by saying "rebuilt" I mean the interior 2287
mechanisms; not the shell or case, the drums.

Q. Do you recall who did the work?

A. It probably would have been the American Meter Company.

Q. Where are they located?

A. At Eleventh Avenue and 47th Street.

Q. Were you present at the time this work was going on, you say?

A. I was in there several times and saw some work going on. I did not follow it.

Q. The plant was not in operation, then, was it?

A. I don't remember.

Q. You cannot tell from your memory whether 2288
they were making gas at that time?

A. No.

Q. You do not remember whether they took steps to have the gas measured in some other way?

A. They would not need to. They work on one meter at a time.

Q. What time of year were you there?

A. I do not recall.

Q. You do not think you could say the gas plant there was not making gas at that time?

A. I don't remember.

Q. How big a building did you say the purifier 2289
building was?

A. I don't remember what I said was the size of it.

Q. What do you say now it is?

The Master: That is the 42nd street purifier?

Mr. O'Brien: Yes.

A. Why, I will look at the plan. I then esti-

2290 mated without any dimension map in front of me, and I now do the same, and I should say it was probably 150 or 155 feet north and south and about 65 feet wide.

Q. It has a wooden roof, hasn't it?

A. Yes.

Q. No slate?

A. I don't think so, no.

Q. What kind of roofs have the other retort houses, 2 and 3?

A. Slate.

Q. Do you know when these holders were installed, these four holders?

2291 A. I do not.

Q. They bear evidences of age, do they not?

A. I imagine they are old holders.

Q. When the skin is peeling off, you would call it pretty old?

A. No, that is merely superficial. That is the paint. That does not tell you anything at all.

Q. What does tell the story of the age of a holder?

A. I don't know. It is pretty hard to tell the age of a holder entirely from examination. You might find in some other gas works than ours a

2292 new holder that had not been properly taken care of.

Q. You mean when you say "ours", the company's?

A. I do.

Q. And "ours" are painted regularly and frequently?

A. They are.

Q. Would you say that of the holders in 42nd 2293
Street?

A. They have been painted frequently, yes.

Q. How frequently?

A. Oh, every couple of years. That is partly what causes peeling. When you paint holders very, very frequently, it causes peeling, because the skin of paint gets thick and brittle.

Q. What happens to a holder when you do not use it?

The Master: You mean with reference to deterioration? It depends, I suppose, on what care is taken of it, doesn't it?

The Witness: And it would depend on the 2294
condition in which it was during the suspended operation, as to whether there was water in the tank and gas in the holder.

Q. Would any danger come to the holder if you don't keep some gas in it, keep it inflated?

A. There will.

Q. What will happen?

A. Well, that depends again on how it is left. If you left a holder without some gas in it, and hermetically sealed, and the inner section landed, you could collapse the crown.

Q. So that to avoid collapsing the crown you 2295
have got to have some gas in it?

A. In a holder, unless the crown manholes be opened up.

By the Master:

Q. If the crown manholes be opened up, you can leave it without gas?

A. You can, and that is what is generally done when a holder is put out of commission.

2296 By Mr. O'Brien:

Q. Well, they don't do that up there?

A. Are you testifying or asking me a question?

The Master: What do you mean they do not do that up there?

Q. The 42nd street plant, they have not the man holes off up there?

A. They have not; they have gas in the holders.

Q. Did they have the manholes off when you were up there?

A. No.

The Master: Aren't these being used for the storage of gas?

2297 The Witness: I don't know. As I say, I am not familiar with the distribution——

Q. Where were these holders put in?

The Master: That has been covered. I won't let him go into it again. That has been exhausted. I won't permit any more questions on it.

Q. Have they been repaired in your time?

A. Yes, one of them rebuilt.

The Master: I think that has been covered. Hasn't that been asked before?

The Witness: No.

2298 The Master: Go ahead.

The Witness: The southwesterly one of the four.

Q. Entirely rebuilt?

A. Almost entirely, except the guide frame.

Q. By whom?

A. The Bartlett-Hayward Company.

Q. Do they do practically all of the work on holders for the company?

A. They do a great deal of it, most of it yes. 2299

Q. Have you ever had any holders in your time built by anybody else?

A. No. I don't recall any case where any one but the Bartlett-Hayward Company have built a holder for the company in my time.

Q. And has Richard Deeves generally done all of your construction work?

The Master: I won't allow that. We have very complete evidence of the work they did and the work the George A. Fuller Company did and the other companies did.

Q. That trestle work, Mr. Alrich, has that been repaired in your time? 2300

The Master: Which trestle work?

Mr. O'Brien: By which the coal is brought in from the dock.

The Master: Which dock? There was another trestle, wasn't there, as I recall it?

A. Yes, there have been extensive repairs made to that bulkhead structure and the trestle work and deck on it.

Q. When that plant was in operation they used their own coke, didn't they, their own screening to run the boilers?

A. I don't know. 2301

The Master: I won't permit any more questions on operation by that witness. I am going to hold you now to construction work and work he is familiar with.

Mr. O'Brien: Your Honor, there is quite a field that has not been covered by the examination of Mr. Chambers.

The Master: That may be, but everything

2302 now that is going to be asked is going to be asked with reference to his work and not as to something else. He has spent half an hour saying I don't know, I don't know, I don't know

Mr. O'Brien: He has said I don't know quite frequently in the examination.

The Master: I am going to take his testimony of I don't knows only in reference to the——

Q. You have had generally to do with the repair work and the new construction work by the company?

The Master: You need not answer that. It
2303 has been answered three times.

Q. Can you state approximately the amount that was done at 14th Street since 1906?

A. You mean the amount of new construction work in dollars?

Q. Yes.

A. No, I have known every penny of it but I don't——

By the Master:

Q. You say that every time, Mr. Alrich.

A. I don't recall it.

Q. The question is do you know?

2304 A. I do not know at the time.

Q. We want to know whether you know now. Because if you do not the way to get it is from the records of the company and we will get it in some other form. Do you know now?

A. No.

Q. The volume of construction work that was done at 14th Street?

A. I do not.

Mr. Ransom: I think he has covered all those 2305
matters.

The Master: I do not want your statement, Judge Ransom. It is cumbering up the record and wasting much time.

By Mr. O'Brien:

Q. Can you give us a summary of the work without going into a needless detail, of the work done at 14th Street?

A. You mean new construction?

Q. Since 1905.

A. There was, beginning in 1905, the rebuilding of the governor and exhauster house and the installation of the machinery and equipment in it, 2306
and there was the building of the boiler house to the north of that building, with the three Babcock & Wilcox boilers, and the accessory equipment, and I have referred to the toilet room built in the retort house for the men. There has been a change in the belt conveyors. That belt conveyor was installed since 1905.

The Master: Wasn't all this covered by you, Mr. Chambers, the condition in which it was when he came to the company and the changes that have been made since and the work he has done on it since? 2307

Mr. Chambers: I don't remember that.

The Master: I am trying to find out whether it was covered by Mr. Chambers without looking at the record.

Mr. O'Brien: Your Honor, he might give me one answer to what I want.

The Master: What is the question?

Mr. O'Brien: What I want to do is to get

2308 him to summarize the work done and the cost of the work.

The Master: He won't give you the cost of it.

Mr. O'Brien: If he can summarize the work.

By the Master:

Q. Have you completed? I am going to let you finish the question because it is not clear in my mind. You said the conveyor belt was installed.

A. Then we put in the tar and ammonia tanks. Now, there may be other items that do not occur to me now.

Q. You have given all that you now recall?

2309 A. All that I recall.

Q. Can you give the approximate cost of this work?

A. I cannot.

The Master: We will take a recess until 2 o'clock. I will run from two to five to make up for the lost time last week.

Mr. O'Brien: I will object to that, your Honor.

The Master: Then I will run from two to four as stated before.

Mr. O'Brien: It is impossible to investigate plants and examine here for the rest of the

2310 day.

The Master: You are going to have all next week.

Mr. O'Brien: I don't know about that. There was some tentative discussion about that.

The Master: Aren't you going to consent to it?

Mr. O'Brien: I understood there was a dis- 2311
cussion about it but that it was not closed.

The Master: I am asking you now. My suggestion to Mr. Chambers is that I would adjourn to-morrow until the 11th of August, giving him a week to finish his opening case, on condition, however, that there has been an agreement by counsel for the defendants, that for the following two weeks we make up the time that I lose next week. If you do not consent to it, of course I cannot do it.

Mr. O'Brien: I would like to suit the convenience of my colleagues and those who are 2312
dissenters in this little controversy here, the complainant, but I have got to record the protests against being compelled to go on a set number of hours the following week. I am not objecting to the adjournment, but of course I am always proceeding here under protest, your Honor, on the basis of my original protest at the beginning of the hearings.

The Master: No, here is my attitude about it, Mr. O'Brien. I had not reached a point of compelling anybody to work any particular number of hours. When this hearing started we all agreed that we should run from 9:15 2313
to 1.

Mr. O'Brien: Well, that was all done by the defendants under pressure. There was not any agreement about that. It is just like agreeing to have this go on on July 15th. I protested then before Judge Mayer, the District Judge, to going on.

The Master: If I am put to it I will simply make a ruling and fix the hours without regard to counsel.

2314 Mr. O'Brien: You go ahead, I reserve my rights under the law. I am not going to consent to going on for six hours on any summer day, and if it is done it will be over my objection, your Honor, and I say that with emphasis, but not with any acrimony, you understand.

The Master: I don't suppose you like it any more than I do.

Mr. O'Brien: It is irregular. The other night I got a cold simply by reason of working around in a gas plant until a quarter past six to get ready for the next day. I have some
2315 rights, and I am going to protect them if I can.

The Master: I will reserve that until tomorrow morning, and you better talk it over with Mr. Chambers.

Mr. O'Brien: He will have to protect his own rights so far as the case in Albany is concerned. If there is going to be an agreement I would like to be as courteous as possible, but when it comes to rights we have our rights and we are going to stand on them. That is my attitude—until the end of this case.

The Master: That is proper. You insist on your rights, but if I determine that this case
2316 shall go from ten o'clock in the morning until one and from two until five we are going to do it.

Mr. O'Brien: Well, I can protest against that. I do not think your Honor is going to adopt such an extremity.

The Master: We might just as well try to accommodate each other and know that this case has got to be finished expeditiously at the earliest possible day, and try to agree with each other as to the hours we are going to work. If

Mr. Chambers cannot prevail on you to assent 2317
to my suggestions I will have to dispose of it as my judgment dictates. This afternoon if Mr. O'Brien says that he figured on a two to four session, as I said, I would hold the other way, I will limit it from two to four without further discussion.

Mr. O'Brien: Let me say this, your Honor: There have been some adjustments to meet the convenience of the complainant and to meet the convenience of the Referee, and I am not going to be ungentlemanly about it——

The Master: I know your attitude. 2318

(Discussion then ensued off the record.)

Recess until 2 P. M.

AFTER RECESS.

Mr. Chambers: While we are waiting, you have not produced all the letters, Mr. Ransom. Will you furnish us with tha' letter mentioned in Defendants' Exhibit "E" for identification, dated Sept. 19, 1916?

Mr. Ransom: Mr. Chambers refers to Defendants' Exhibit "E" for identification, which is a renewal memorandum, and directs my attention to a reference in it to some letter of 2319
the Consolidated Gas Company, which modifies the stipulated rental. I will look up such letter and will produce it if I can.

Mr. Chambers: Are these all the leases covering those parcels?

Mr. Ransom: They are all the leases I have been able to find. I will inquire further, and if there are any, I will endeavor to produce them.

2320 HERBERT W. ALRICH resumed the stand.

CROSS-EXAMINATION CONTINUED BY MR. O'BRIEN:

Q. Would $112,000 cover entirely the work done on the 14th street station since 1905?

A. I am prepared to tell you exactly.

Q. Well, answer that question, will you?

A. After referring to a memorandum which I have now available——

By the Master:

Q. Will $114,000 cover it?

A. It will.

By Mr. O'Brien:

2321 Q. You recall quite generally the work done at 42nd street during the same period?

A. I do.

Q. Would $12,000 cover that?

A. It would.

Q. Do you recall the work done at the 18th street storage station?

A. I do.

Q. Would $6,000 cover that?

A. Not quite.

Q. Would $7,000 cover it?

A. It would.

Q. Do you recall the work done in the same period

2322 at the 42nd street storage station?

A. I do.

Q. Would $65,000 cover that?

A. It would.

Q. And the work done at 63rd street?

A. I do remember.

Q. Would $26,000 cover that?

A. Not quite.

Q. Would $27,000 cover it?

A. It would.

Q. Then $222,000 or $223,000 would cover all of 2323
the work I have described?

The Master: You need not answer that. The figures speak for themselves.

Q. Now that work that I have described does not take in the 21st street water gas station, does it?

The Master: You need not answer that.

Q. You have not included, nor understood me to include the 21st street water gas station in my questions?

A. I have not.

Q. Are you acquainted with the withdrawals from those different properties? 2324

A. I am.

Q. During the same period?

A. Yes.

Q. Could you say what gas has been made in 14th street and 42nd street in the years 1916, 1917 and 1918?

The Master: That question is ruled out.

Mr. O'Brien: Exception.

Mr. Chambers: I know, your Honor, but there was no objection to it.

The Master: I am objecting to it. I think the judge or referee who sits there like a graven 2325
image and does not use his brain does not take the proper position. I am running this case.

Mr. Chambers: I know, but your Honor may not know what is back of our inquiry.

The Master: I know what the line is. I am not going to permit that to be inquired about of this witness.

2326 Q. Have you given us the daily capacity of these two plants?

A. Meaning 14th and 42nd?

Q. Yes.

A. I did not.

Q. Do you know what they were?

A. I do not know what the company officially rates them at.

Q. What would you say they are?

A. My estimate as a gas engineer, made here without anything to refer to, would be 5,000,000 cubic feet per day for 14th street and four and a
2327 half million feet for 42nd street. Now, that is my estimate made here in this chair.

Q. Did you ever have occasion to look up the output for 1916, 1917 and 1918, in these two plants?

A. Never.

Q. Who called you a gas engineer?

The Master: That is ruled out. He calls himself a gas engineerr.

Mr. O'Brien: The second last answer he gives as a gas engineer.

The Master: I say he calls himself a gas engineer.

2328 Q. Now, I asked you yesterday about the yard there at 14th street and the description of the purifier house and the open space back of the purifier house. How long have these holders been out? The holders in that particular yard which were taken down and put out of use have been gone how long?

A. Since 1916.

Q. And the foundations were filled in?

A. The foundations are buried under the ground. The tanks were filled in. 2329

Q. The space is filled in where the tanks were?

A. Yes.

Q. Does the Cunningham Company do any work for the complainant besides trucking coal?

A. They truck other materials sometimes as we have occasion to employ truckmen.

Q. Well, do they truck any coal to any other place besides the 14th street plant?

A. I don't know. It may have been that they did. I don't know. I don't think so; that is, in later years.

Q. When you say that they truck coal, you don't mean recently, do you? 2330

A. To be exact, I meant in 1917 and 1918. The coal that was unloaded at the bulkhead on block 991 was trucked by them.

Q. Well, you didn't mean that they trucked the Eagle Company coal?

A. I did.

Q. Oh, is that the coal that you meant when you said they were trucking coal?

A. They trucked both the coal of the Eagle Pencil Company and put that in there, and they also trucked the coal that we put in in 1917, in the fall. 2331

Q. You don't know of their having trucked any since?

A. For the Eagle Pencil Company?

Q. For your company or the Eagle Pencil Company.

A. I haven't now in mind what the exact facts

2332 are. They may or may not have trucked coal for us since.

Q. Do you know whether they pay rent to the complainant company for the storage of these twenty odd trucks there?

A. I do not know.

Q. Do you know whether any of the other owners of trucks there pay rent for the use of that property?

A. That is a matter with which I have nothing to do.

By the Master:

Q. Then you don't know?

2333 A. I don't know.

By Mr. O'Brien:

Q. Outside of the purifier house and the machine shop, there is no other structure upon the premises, that particular plot?

A. The fences, the purifier house, the boiler house—no, not the boiler house, the meter house and tool house.

Q. You are not bringing in a boiler house now, are you?

A. No.

Q. That tool house is at the north, it is the same

2334 building, isn't it?

A. It is an extension of the purifier house.

Q. That is the only building here on the east side of block 98, lot 13, isn't it?

A. The purifier house?

Q. Yes.

A. No, it is on the west side of Avenue C.

Q. Now, where does the tool house you speak about come in, where is that?

A. It begins at about 65 feet west of Avenue C. 2335

Q. And it is a little extension to the purifier house?

A. It is, and I have so described it.

Q. Well, practically the purifier house extends on 14th street about 65 or 75 feet?

A. About 65 feet.

Q. So that we have the difference between 434 feet, 10½ inches, and 65 feet open from block to block, from 14th to 15th street, without any structures on it?

A. No, the meter house in the middle of the block extends westwardly from the purifier house, making something like 100 feet from the west side of 2336 Avenue C.

The Master: That has all been covered.

Mr. O'Brien: I know, but he hasn't got that right.

The Master: That may be, but his testimony on direct and cross examination by Mr. Chambers and again now is that with the exception of a small part of this purifier house which extends out to a point not more than 100 feet from the street, the rest of the block is vacant land.

Mr. O'Brien: He has rung in a meter house 2337 now.

The Master: That is not used.

Q. You mean there is some extension to the purifier house that is called the meter house?

The Master: I had occasion to clear that up the other day. There is a little extension here to the meter house that runs back about thirty-five feet or more.

2338 The Witness: That is correct.

The Master: He says from that point, being 100 feet from the street, there is no other structure there. That is perfectly clear on the record.

Q. Mr. Alrich, who is in charge of this part of the company's property?

A. The superintendent of the station there is Mr. A. R. Ritchie.

Q. And does he locate there or is he at 21st Street. Where is his office?

A. There at 14th Street, although I believe he has been engaging in some activity at 21st Street, too.

2339 Q. You do not mean that he is using that as an office, at 14th Street, that that office is doing any business there?

A. That is where I always call him on the telephone. The distribution from the gas holder, the three million cubic foot gas holder, is handled from there. The supervision of that part of the plant.

Q. I know, but you spoke about the building being used for the clerical staff.

A. Yes.

Q. You gave a description as in the present tense. You did not mean there is any clerical staff

2340 in that office?

A. I am under the impression that they have a clerk there, possibly two clerks.

Q. Now, let us understand it. When were you there last?

A. Oh, within three weeks.

Q. And whom did you see there. Name the men and we will have it definitely on the record.

A. I don't remember seeing any man that I know

by name. The ordinary workmen I do not know 2341
by name.

Q. You do not, but how many of the ordinary workmen did you see there?

A. I remember distinctly having seen four.

Q. What were they doing?

A. Two were in the governor house and two were in the boiler house.

Q. You did not see any clerk working at clerical work in the office, did you?

A. I do not believe I went in the office that day. I think I went into the plant from 15th Street.

Q. At the previous visit did you see anybody working at clerical work in the office? 2342

A. I believe I did on the previous visit, yes.

Q. Is that belief meaning that you think you did?

A. I am quite sure I saw a man named Stevens in the office.

Q. What was he keeping tabs on?

A. I have not the ghost of an idea. He was at work on some books.

Q. That is all you mean when you say the clerical staff in this office; when you in your testimony referred to the clerical staff, the superintendent and the clerical staff, you referred to some time the 2343
plant was running but not the present time?

A. I referred to both.

Q. Then you mean that Mr. Stevens may have been the clerical staff when you were there on your second last visit

A. Individually or with another. I don't know.

Q. The plant is shut down; there is not any doubt about that, is there?

2344 The Master: No, there is not any doubt about this, either, Mr. O'Brien, that when this witness spoke of a clerical staff you have developed it perfectly clearly upon the record that it is practically not in use and that his notion of a clerical staff is that when the plant was in full operation they had a large staff or a substantial staff, and now they may have one or two clerks there once in a while. It is perfectly clear.

Q. Outside of these four men you mentioned, these two men in the governor house and one or two around the office there, you do not know of
2345 any other employees on the place there?

A. I am sure there are some more there, but I don't know the duties of those men.

Q. When you come out of the rear of that office building you go out into a yard, don't you?

A. Yes.

Q. And how big a yard space is there?

A. I don't recall its dimensions, Mr. O'Brien.

Q. Have you made any computation of the vacant spaces of these various plottages that are unoccupied and unused?

A. I have not.

2346 Q. You have not diagrammed that, have you?

A. No, there is very little such space, or none.

Mr. O'Brien: I move to strike that out, your Honor.

The Master: Motion granted. The record tells us how much there is.

Q. Do you know when those rotary scrubbers were put in?

A. I do not.

Q. The shed, the coal shed on the east end of 2347
Block 988, do you recall when that was built, if it was built in your time?

The Master: I won't allow that. Mr. Chambers has been all over that. He took up every plot and every structure as to whether it was there when he came with the company. I won't allow that.

Mr. O'Brien: There are some features to be gone over again, because they are interwoven with ideas I want to ask the witness about.

The Master: Get down to the idea that is new.

Q. What did you say the roof of that building 2348
was?

A. Slate. If I stated at all I said it was slate.

Q. How do you know it is slate?

A. I have seen it.

Q. Where did you see it from?

A. The street.

Q. From 14th Street?

A. 14th and 15th Street.

Q. Did you go over it and make a survey of it for the purpose of testifying here?

A. I did not.

Q. Or are you just giving us that from your rough 2349
memory?

A. I am giving it from my recollection.

Q. There are large bags there of some material now, are there not, in that part of that warehouse?

A. There are.

Q. What do they contain?

A. Materials that were used for making carbon.

The Master: By the Government?

The Witness: For the Government.

2350 Q. Has the Gas Company bought that from the Government?

A. I think they have, and are using it as a fuel, boiler fuel.

Q. It is being used then as a fuel?

A. As a boiler fuel.

Q. Where?

A. In the boiler house in Block 989 already described by me.

Q. As a gas engineer would you say it was a good fuel to use?

The Master: That will be stricken out, not allowed. I won't let you go into that, Mr.
2351 O'Brien. The direct testimony has nothing to do with any work of that kind.

Q. Did the Gas Company have any employees taking part in the manufacture of gas for the government?

The Master: I won't allow that either.

Mr. O'Brien: I think, your Honor, it is a perfectly proper question.

The Master: If I thought so I would allow it. This witness has testified to the location of various properties, to the character of structures that are on them, to the general character
2352 of the machinery that is in them. I am going to let you now from this point on cross examine on any point not covered by Mr. Chambers, as to the accuracy of those statements, as to these structures, as to where they are, the character of them, their age or what is in them, or any question testing his credibility as a witness, and I am going to limit the cross examination to that.

Mr. O'Brien: This is an examination on this 2353
immediate question to show you what I have in mind. They have a shed there which the witness has said is partly taken up with what the witness has said was—what do you call it, ivory? What do you call that material?

The Witness: Why, the materials used are miscellaneous. I think this is what is called the ivory nut.

Mr. O'Brien: There is the nut, I will give it in the real raw shape. That is a nut, isn't it?

The Witness: Yes, that is a nut.

The Master: An ivory nut?

The Witness: I think it is what they call an 2354
ivory nut. There was a very large number of different varieties used, principally the Cahune nut from Honduras. We are using them as boiler fuel.

Q. You are using them as boiler fuel there?

A. Yes.

Q. And you intend to use what is stored there as——

A. I do not pretend to know the company's intentions, Mr. O'Brien.

The Master: That is where we land every
time. He does not know what they intend to 2355
do or what they will do.

Q. Were they under your supervision, I mean the making of that gas? Was that under the supervision of the company?

The Master: What gas?

Mr. O'Brien: This gas for the government.

The Master: There was no gas made; there was carbon made for the government.

2356 Mr. O'Brien: Yes, he made certain gas, as I understood it, that was used in the gas masks.

The Witness: No, carbon. It looked like a black soot.

Q. Well, whether it was gas or something that was used in the gas making business, did you supervise that work? Was that done under the supervision of the men employed by the complainant?

Mr. Ransom: There are two questions. Will you separate them?

A. May it be read to me?

2357 Q. Was the work of making the carbon which went on during the year 1918, or part of that year, done under the supervision of the officers or employees of the complainant?

A. Without undertaking to distribute their authority the officers and executives and engineers of the gas company did participate in the work along with officers of the United States Army. I do not undertake to distribute the authority or the responsibility.

Q. Were they in personal charge in the factory itself?

The Master: No, I think we have had enough

2358 of that.

Q. Who is Mr. Edward J. Kenney?

A. I know of him principally as a deputy chief of the New York Fire Department, or I saw where he received a medal of honor.

Q. No, you are mixing him up with another Kenney, aren't you?

A. I don't know. That is the only Edward J.

Kenney I know. If you are asking about any other 2359
I don't know any.

Q. Is there an Edward J. Kenney you mean connected with the Edison Company?

A. He has some connection with the Edison Company, I believe.

Q. Has he any connection with the complainant company?

A. None that I know of.

Q. How would you explain his name being on a directory on the wall in one of the little houses on this plant?

A. I don't know. I did not see it.

Q. Didn't you go through the plant some time 2360
lately?

The Master: Well, I won't allow it.

Mr. O'Brien: I am trying to find out how much of an examination he made of the complainant's property, your Honor.

The Master: No, I won't allow the question.

Q. Did you ever know of him having been connected with this plant?

A. No.

Q. Or the complainant company?

The Master: Go on and answer it.

A. No. 2361

Q. When this plant was running did the National Coke Company use any part of it?

The Master: Which plant are you talking about now, Mr. O'Brien?

Mr. O'Brien: 14th Street.

A. I don't know that they used any part of the plant. They took coke away from there.

Q. Didn't they have offices there?

2362 A. At the time they were taking coke away?

Q. Yes.

A. I think they had a little four by six office, something of that kind down on the 15th Street side.

Q. You have already been asked about the sign that is outside. That is on the regular office of the company?

A. Yes.

Q. Do they bring in their own conveyors and take the coke away?

A. It was taken away in carts.

Q. In their own carts or the complainant's carts?

2363 A. Their own carts.

Q. Where do they run the business; I mean the regular office business?

A. Why, they have an office, a small office on the second floor of our general office building, but my understanding is that most of their business is transacted in that office on the north side of 110th Street in block 1704.

Q. Have you any idea of the business done in 30 East 15th Street by them?

A. No.

Q. Where do their canvassers work from?

2364 A. I don't know. I don't know whether they have any canvassers or not.

Q. Have you ever been in their office in East 15th Street?

A. I have.

Q. How much of that floor do they occupy?

A. I don't know it in square feet. It is quite a small space, Mr. O'Brien.

Q. Well, Booth & Flinn have the whole street occupied there? Avenue D, is it? 2365

A. Avenue D, yes.

Q. The whole street between this particular block where the coal shed is and the river is occupied, and the building next to the river, by them?

The Master: That has been fully covered. That has been very fully covered twice, and I won't allow a question on that.

Mr. O'Brien: I will drop it after this question. I do not intend to dwell unnecessarily on these things. He has got that street shown running into the hospital there on his diagram. 2366

The Master: This is block 991.

Q. Avenue D is occupied entirely by Booth & Flinn, isn't it?

A. It is, between 14th and 15th streets.

Q. By their structures?

A. Yes, correct.

Q. This street shown as Avenue D extending through to East 16th street is not open?

A. Not now.

Q. No, that is fenced up, isn't it?

A. It is.

Q. And the hospital is built there?

A. Not in the middle of the street. They have kept the street space clear; they have built on each side, but they have not built in the bed of Avenue D. 2367

Q. This does not extend north of 16th street?

A. It is not now open for traffic.

Q. Won't you answer my question?

The Master: That is an answer. He says

2368 strictly the avenue does extend, but it is not open for traffic.

Mr. O'Brien: He is pronouncing something in a legal way there.

The Master: You are asking him about it.

Mr. O'Brien: I have asked him about the physical conditions.

The Master: I think he has answered it fully.

Q. On this block run by Booth & Flinn, there is no property of the complainant company in the shape of a structure, except this little brick building at the northeast side of Avenue D and 15th
2369 street?

A. Southeast side.

Q. Southeast side, yes.

A. No. No other structure belonging to the complainant.

Q. All the other structures are of Booth & Flinn?

A. Correct.

Q. And all of the property strewn around the lot is Booth & Flinns?

A. It is, as far as I know.

Q. None of the iron work that is there?

A. No.

2370 Q. Or implements or tools or machinery belong to the complainant company?

A. None of them.

Q. And the coal, let me get this fixed definitely,—when you said you ordered the barges alongside, and you got the coal out, you did not mean to indicate that it was brought over by some mechanism and some overhead trolley into the coal shed, did you?

A. No.

2371

Q. It is brought along the street?

A. Correct.

Q. In the governor house the connection there, as I indicated, or you did in the examination the other day, show the New Amsterdam mains interwoven with those of the complainant company? In the governor house they are hooked up together aren't they?

A. Are you asking me a question?

Q. Yes.

A. If that diagram does show it?

Q. Yes.

2372

A. I do not recall what the diagram shows.

Q. What is the fact?

A. As I previously testified, the New Amsterdam holder is connected on to the connection in that governor house.

Q. Where did you get the data from which you made a dividing line between the New Amsterdam Company's holder and what is apparently their property and the complainant's property?

A. From the deeds.

Q. As a matter of physical occupation of this property here, that does not represent the holdings of the two companies, this diagram?

2373

A. I do not understand that question.

Q. I might be definite and ask where is the holder of the New Amsterdam Company, located?

A. In Block 989, east of Lot 1.

Q. You are positive of that?

A. It is.

Q. You are positive it is not on the company's property?

2374 A. I am absolutely positive, and I have a reason for being so.

Q. What is that reason?

A. I laid out that line and the offset in it which is shown as nine feet.

Q. We know you laid it out on this plat here.

The Master: He means on the land.

Q. On the land?

A. At the time the conveyance was made I laid out the line.

Q. Is the engine in building adjacent to the office building on block 988 used in connection with these holders—or rather the boiler, I meant
2375 the boiler?

A. As I already testified it is hooked into the three Babcock & Wilcox boilers in Block 989. Whatever is done with the steam from one boiler may be done with the steam from any other boiler.

Q. And there was some exhausters out here in the yard on Block 989. You do not know to whom they belong?

A. Some exhausters?

Q. Yes, abandoned cycloidal impellers.

A. Well, any such exhausters would have been scrapped.

2376 Q. Well, they are scrapped, are they not, the four or five that are in the yard there?

A. If they are out in the yard in the weather they are scrap iron and nothing more.

Q. That is a conclusion that a layman like myself could make fairly from seeing them there?

A. I do not know your full ability in forming conclusions.

Q. Did you include them in your listings of the

property of the complainant when you were speaking about exhausters? Did you include these four that were out in the yard there? 2377

A. I did not. I did not even recollect that they were there until you spoke of it, and even now I do not really picture them in my mind as being there.

Q. My statement does not refresh your memory enough?

A. Just dimly, Mr. O'Brien.

Q. You referred to a little shed there along Avenue C at 15th Street, right near the holder. That shed is vacant, isn't it?

A. Meaning in the angle of the fence at the northeast corner of 15th Street and Avenue C? 2378

Q. Yes.

A. Why, the last I saw in there they had the tackle and scaffolding for painting the holder.

Q. Outside of that did you see anything else there?

A. I don't recall.

Q. Would it be a difficult matter, Mr. Alrich, to diagram the 15th Street office building showing the portions used by the complainant and the portions used by some of the other companies, other tenants?

Mr. Ransom: May I just say this: I have asked and have already started to have that done. Whether that will be here this afternoon I do not know, but it will be here either this afternoon or to-morrow. 2379

Mr. O'Brien: That will save a good deal of questioning, because I——

The Witness: That leaves the question unanswered by me.

2380 Q. About that auditorium on the 13th and 14th floors, that extends up a space of two stories?

The Master: That need not be answered. That has been fully covered.

Mr. O'Brien: I know it has been, your Honor, but that is only introductory to the next question.

Q. How many meetings a year have you been at in that auditorium?

A. I don't recall.

Q. Do you know whether it is used at all or not outside of the conferences you have been at of em-

2381 ployees?

A. It doubtless is, but I don't know what they are. I am not in touch with that question.

Q. Is the use of it made available to the other tenants?

The Master: That was asked in the previous examination. I won't allow it.

Mr. O'Brien: Exception.

Q. Would you say you have been at half a dozen conferences within a year in that auditorium?

The Master: You need not answer that. I will give you an exception, Mr. O'Brien.

Q. Where can we get a record of how often that

2382 is used?

The Master: Answer that if you can.

A. I don't know.

Q. Would you state you have been there more than a dozen times in a year at conferences or meetings?

The Master: The question is not allowed. Exception to Mr. O'Brien.

Mr. O'Brien: Your Honor, I don't know, but

I have a fair memory of what was asked the witness, and I would like to have it definitely understood. Possibly they may produce some one to cover that ground, but here is a space of two stories which will be very important on the question of—— 2383

The Master: I think it has been fully covered, Mr. O'Brien.

Mr. O'Brien: What his answer was before, as I recall it—he was not categoried on it or any question of the kind to indicate how much it is used, and I want the witness' best memory.

The Master: I think it has been sufficiently covered. The only reason for my ruling is, I think it is sufficiently covered. 2384

Q. Is it rented to people outside of the tenants?

The Master: I am very sure that question was asked and answered, Mr. O'Brien. I do not like to make it as a positive statement, but I have a very clear recollection of it. Mr. Chambers went into it in great detail. You can answer that question, if you know.

A. I am quite positive it is not.

Q. How high are those stories, the separate stories of these buildings?

The Master: The question is not allowed. The plans are here and speak for themselves. 2385

Mr. Chambers: I don't know whether they are or not.

Mr. O'Brien: I am testing the witness' memory.

The Master: You have tested it enough.

Mr. O'Brien: I am testing his knowledge of the plans.

2386 The Master: I will not allow it.

Mr. O'Brien: If I am to be barred from asking questions about these plans here, they will serve no purpose.

The Master: Ask the next question, and we will see.

Q. What part of these plans did you do, Mr. Alrich?

Mr. Ransom: Referring now to the plans produced by the complainant?

Mr. O'Brien: Yes.

Mr. Chambers: They are queer plans, what I have seen of them.

2387 Mr. Ransom: They are working drawings of various things.

Mr. Chambers: They relate mostly to the fancy work.

Q. Did you do the sheet marked 6209?

A. I did not make the drawing, nor does it relate to any work of which I had the supervision.

Q. I call your attention to sheet 6706, and ask you who this R. W. S. is, the plan that is made by R. W. S., traced by R. W. S., checked F. J. M.?

A. The R. W. S. are the initials of Ralph W. Scott, a subordinate of mine. The initials F. J. M.

2388 opposite the word "checked" are the initials of Frank J. McWade, another subordinate of mine.

By the Master:

Q. Wherever their initials appear on a sheet you had to do with the supervising of their work; is that the idea?

A. I should say in every single case. There might possibly be some exceptions to that, but I don't think there is.

Q. Where their initials do not appear, you had 2389
nothing to do with the sheet?

A. No, that would not be true either. There are other subordinates of mine. There was a large staff of men on this work, and some of the drawings will be found to be initialed by others.

By Mr. O'Brien:

Q. Were Scott and McWade architects?

A. They were structural steel draftsmen.

By the Master:

Q. In other words, wherever these sheets had to do with the foundations or structural steel work, you or your subordinates or both, had to do with 2390
the drawing of the plans?

A. That is correct.

Q. And with nothing else?

A. Nothing else.

By Mr. O'Brien:

Q. Who is F. W. W.?

A. May I see the drawing, please?

Q. Can't you tell us without refreshing your memory?

A. The drawing would greatly assist me.

The Master: Let him see the drawing, Mr. O'Brien.

A. I am dealing with a very long list of men. 2391

The Master: There may be half a dozen with these same initials, and it may not be in his department at all.

By the Master:

Q. Do you know whose initials these are?

A. I do.

Q. Whose are they?

2392 A. I recognize that as the initials of Frank W. Walker. I identify it from the lettering.

By Mr. O'Brien:

Q. Is he a structural steel man too?

A. He was a general draftsman, not a specialist in any particular line.

Q. Am I correct in understanding you to say that Hardenbergh, the architect, only drew the plan for the facade?

A. No, you are not correct in so understanding me.

Q. What else did he plan?

2393 A. He designed, as I previously testified, the ornamental features of the building, such as the interior of the auditorium, and the main entrance to the building, and as far as I remember, he designed the ornamentations in the restaurant. There are other features of that character that he designed.

By the Master:

Q. Generally of an ornamental character?

A. Yes, sir.

By Mr. O'Brien:

Q. Is there a Mr. Truett on your staff too?

A. May I see that drawing, please?

(The witness examines the plans.)

2394 The name was Truess.

By the Master:

Q. Is he on your staff?

A. He was,—not on my personal staff, on the company's staff.

Q. Was he a specialist?

A. He was.

Q. On this construction drafting work?

A. He was an architectural draftsman and de- 2395
signer.

By Mr. O'Brien:

Q. Who is H. W.?

A. I do not recall whose initials they are, out of this large staff that was employed on the building.

Q. That does not refresh your memory, does it?

A. It does not.

Q. On who had charge of this work?

A. That is not the fact. This drawing does not refresh my memory as to who made it, and as to whose initials the H. W. are.

Q. You don't recall any H. W.? 2396

The Master: That has been asked and answered, and will not be answered again.

Q. Do you know W. E. H.?

The Master: Show him the plan.

Q. And H. L. B.

The Master: Let him see the plan.

Q. The last paper I asked you about, where H. W.'s name is, you haven't your initials on that?

A. No, it is something with which I had nothing to do.

Q. None of the sheets that I have shown you so far has your personal approval on it?

A. Not indicated on the sheet. I recall the ap- 2397
pearance of the man whose initials are W. E. H., but I can't think of the name; also H. L. B.

Q. That is on sheet 6677?

A. Yes, sir.

Q. You picture the man, but not his name?

A. How is that?

The Master: Oh, I will not allow it. That is a very usual thing. It happens with me every

2398 day. I can picture a man but not know his name.

Mr. O'Brien: By his initials?

The Master: Why, I know who a man was who did a certain piece of work, just as he recognizes the man who was working on that sheet, and probably never knew his initials.

Mr. O'Brien: That is apart from the initials then. I appreciate that, but not where he says he can picture the man in connection with the initials.

By the Master:

2399 Q. You pictured the man who, you know, worked on that plan?

A. Yes.

Q. Did you know his name at the time?

A. I did.

Q. Do you know whether his name represents those initials, either of them?

A. I am sure that those are the initials of the two men who made this drawing. I remember working in contact with them, because it involves the structural steel designed where the cornices and structural features are supported.

By Mr. O'Brien:

2400 Q. Has this, or any of the sheets which I have so far shown you, got your initial or name or check mark on it?

A. It has not.

By the Master:

Q. Was it the habit in that work for you or any of the supervising officers to check these plans, Mr. Alrich?

A. There were certain draftsmen assigned to the

work of checking, and where they are marked 2401
"checked", they are marked "checked" by the name of that draftsman who was assigned to check them.

Q. Mr. O'Brien evidently has in mind and is developing the point that as against your testimony that you have supervising jurisdiction over the structural steel and foundation work, none of these plans so far produced—and there are a great bulk of them still on the table—indicate that you in any manner, shape or form checked it with your initials, or that your name appears on it. Now, is there any plan that will have your initials or name on it, or was it not the practice to do that?

A. It was the practice. There is a bushel of 2402
such drawings initialed with my name, and he is going to get to them before he goes very far.

By Mr. O'Brien:

Q. I call your attention to sheet 6796, made by J. S., traced by J. S. Do you recall who he is?

Mr. Ransom: The record ought to show that none of the structural steel and foundation plans apparently are being shown.

The Master: Why, Judge, I don't think this line is especially important. I am allowing it because Mr. O'Brien apparently thinks it is, and I do not want to set up my judgment 2403
against his. He may have something in mind.

A. The drawing shown me entitled, "General Office Building—steam piping and vent ducts and auditorium ceiling" is not initialed by myself, and is not anything with which I claim to have had anything to do.

The Master: Mr. O'Brien, if this line of testimony is intended to reflect upon the ac-

2404 curacy of the witness' testimony, or to bear upon his credibility as a witness with reference to the various structures upon the various properties, I do not think it is very important, because before this case is finished the record will be very clear, and I take it almost beyond dispute, that certain sections of property are or are not being used for certain purposes or in a certain way.

Mr. O'Brien: Here is my attitude with regard to this witness, and will be with regard to the others where there is not a frank statement made when they put a man on the stand.

2405 I am going to assume that he may testify before the case is finished on any branch of the subject, and my day is the present time, my opportunity is the time when a man is on the stand, to ask him these questions, because I will be met with the statement later on that he testified to so and so, and I did not protest, I did not object, that I accepted him. I do not accept him. This man has said "we", speaking about the gas company, as though he were Mr. Cortelyou, or Mr. Carter, or Mr. Bradley. I am going to attack him to show

2406 that he has not the authority, and is not the company. Why, he is even in the record as saying that he drew original plans for U. G. I. machines.

The Master: I would not care if his testimony with reference to experience and knowledge as a civil engineer or gas engineer were made out of absolutely whole cloth. I don't care anything about his qualifications as a

engineer, civil or gas. What I want to know 2407
is whether a certain piece of land is used for certain structures, and whether those structures are being used for the making of gas.

Mr. O'Brien: But here is the point: He may be recalled upon some other subject——

The Master: Then you can examine him.

Mr. O'Brien: They will say, "You had your time to examine him."

The Master: They will not say that to me at all, and if it is said to you I will not sustain it.

Mr. O'Brien: The point is, I am going to 2408
ask the Court to get the measure of the witness while he is with us.

The Master: I think I have his measure.

Mr. Ransom: May I say this: Even you want to interrogate so far as any of the kind of drawings which this witness says that he had anything to do with, if you want to show him drawings in relation to the structural steel and the foundations, of which there are a large quantity in the court room——

Mr. O'Brien: I will accept the challenge of the witness, and hand him these plans that are 2409
supposed to be the plans, and let him find the bushel with his name on them. There they are.

The Master: There are in the court room probably eight or ten very large bundles of plans and maps. I am going to give the witness three minutes to see if he can locate the bundle that more particularly relates to his work. If he cannot locate it I will let him do

2410 it between sessions, between now and tomorrow morning.

Mr. O'Brien: Before he does that, I will ask him a few hurried questions. I will combine them so it won't take more than four or five minutes.

The Master: I don't care very much whether you prove him to be a liar or not as to his qualifications, or as to the extent of his work. What is the use of wasting time? I will assume for the purpose of the argument that your judgment is right, that he is exaggerating his own importance. What difference does it make?

2411 Q. Do you know, on sheet 6789, whose initials F. H. C., and H. L. B. are?

A. This is a drawing of the general office building showing the details of electric switchboards in basement. The initials of F. H. C. pertain to F. H. Cruess; H. L. B., I recall now, are the initials of Henry L. Boyd, whose initials were on one of the other sheets, and I could not then recall. I remembered the man but could not remember his name.

Q. That sheet has not your name or initial on it, or it was not approved by you, so far as the record on it goes?

2412 A. And I do not pretend to have had anything to do with any other part of it except so far as it shows some structural steel work copied from another drawing.

Q. I show you sheet 6907, and ask you if your name is on that, or your initials?

A. This drawing shown me entitled "Auditorium details", does not bear my initials, and I do not pre-

tend to have had anything with the designing shown 2413
on that drawing.

Q. Does your initial appear on sheet 6717?

By the Master:

Q. What is that sheet?

A. It reads: "15th Street portico". It bears the initials of Henry L. Boyd, and does not bear my own. It is not work with which I pretend to have had anything to do, except as far as it indicates certain structural details copied from other drawings in the room, approved by me.

By Mr. O'Brien:

Q. Did you have anything to do with the planning 2414
of the partitions?

A. You mean on all the floors of the building?

Q. On any of them or all of them.

A. It is possible that I may have had some unimportant connection with the design or locating of the partitions.

Q. I show you sheet 6206, and ask you if that contains your name or your initials opposite the word "checked", or "traced", or "approved by"?

A. This drawing shown me entitled "Plan of partitions on second floor" bears the initials of Frank W. Walker. It does not bear my own initials, nor do I pretend to have had any connection with 2415
the making of the drawing.

Q. I show you sheet 6719, covering the auditorium floor, and ask you if that is initialed or bears your name?

A. The sheet shown me entitled "Auditorium details", is signed by F. W. Cruess, and does not bear my own initials, nor do I pretend to have had any

2416 connection with the designing of the work built from this drawing.

Mr. O'Brien: I will ask that that sheet be marked for identification then.

Sheet marked Defendants' Exhibit H for Identification.

Q. I show you sheet 6785, and ask you if that is your name or initials?

A. The sheet shown me entitled "Ornamental iron and bronze details", is signed by F. W. Cruess. It does not bear my initials, and it does not represent the work with which I was connected, except as far as it shows, without dimensions, 2417 structural steel work copied from other drawings made under my supervision.

Q. Did you have anything to do with the steam heating system, or planning it?

A. Not a thing in the world.

Q. Did you have anything to do with planning the lighting system?

A. Not a thing in the world.

Q. I show you sheet 6169, and ask you if that is entirely the work of Hardenbergh, the architect, the facade of the 15th Street side?

A. It is entirely a design worked out in the office 2418 of H. L. Hardenbergh; but I note that the drawing is marked "Revised February 14, 1913". It is my impression that the dimensions giving the spacing of the main pilasters were altered in our office and revised by us.

Q. Did you have anything to do with the engineering features of the walls and columns?

A. I did.

Q. Did you make the computations on which 2419
these plans were drawn?

A. I did.

Q. For the bearing capacity of the floors?

A. I did.

Q. Do you recall just what the columns were, their dimensions, the main columns?

A. That would represent an enormous amount of detail.

By the Master:

Q. You cannot give that?

A. No.

By Mr. O'Brien:

Q. Did you have anything to do with the plumb- 2420
ing features, the plumbing system, its location.

The Master: You need not answer that. The witness has told us over and over again what he did have to do and what he didn't have to do with. Don't let us have any more. We have wasted too much time now.

Q. I show you sheet 6671, and ask you if that is your name, or your approval?

The Master: Before he answers that I want to know whether it was anything that came within his jurisdiction?

The Witness: It was not. 2421

The Master: Then don't answer the question.

Mr. O'Brien: Now wait a minute, your Honor. Do you mean to say you determined the steel work and the engineering features of the steel work of this building, and the bearing capacity of the floors and columns, and that you didn't have anything to do with this particular sheet?

2422 A. The Master asked me if it was anything over which I had jurisdiction, and I answered no. You are asking me a different question.

Q. You had nothing then to do with the elevator pit and the elevator shafts?

A. I did, the structural features of the elevator shafts.

Q. Does not the plan I have just shown you have something to do with the structural features of the elevator shaft?

A. It is not a working drawing for the structural features of the elevator shaft.

Q. What would you call this?

2423 A. The drawing has its own title. It reads: "Part plan at elevators and at first floor to roof."

Q. I show you now a very important plan, apparently sheet 6037.

The Master: What is it entitled?

Q. Entitled "Columns schedules", showing various computations of figures as to columns. I ask you if these initials down there in the right hand corner are yours?

A. They are.

Q. Where are they?

A. Approved H. W. A., right down here (indi-

2424 cating).

Q. Is that H. W. A.?

A. Yes.

Q. Is that the same H. W. we had before?

A. No, this is H. W. A.

Q. Where is the A on that?

A. Right there; very clear; the Master can see it for himself.

Mr. O'Brien: You had better get a microscope.

The Master: I will look at it without a mi- 2425
croscope, and see if I can see it. I should say that the witness' statement is correct, that the initials H. W. A. appear on it quite clearly.

Mr. O'Brien: Well, my eyesight, I guess, is very poor.

The Master: Better get your glasses, Mr. O'Brien. You are in my class, even if you won't admit it.

Q. Who is W. F. H.?

The Master: Before he answers it, what are you looking at?

Mr. O'Brien: This is the piers at the col- 2426
umns.

The Master: It relates to columns?

Mr. O'Brien: Yes.

By the Master:

Q. Did you have anything to do with that?

A. I would rather see the sheet. (Witness inspects drawing.) The drawing shown me marked "Plan of Piers at Columns No."—and then the serial number of certain columns is given, is not initialed by me. It is not a drawing from which structural steel work was built.

Q. Whose initials is this W. F. H.?

A. I do not remember. His initials were on one 2427
of these other sheets.

By Mr. O'Brien:

Q. Is it W. F. H. or W. F. A.?

A. It is W. F. H.

Q. You call that an H then?

A. I do.

The Master: Mr. O'Brien, you said that you would only take three minutes. I have given you fifteen. We will let the witness pick out the package.

Mr. O'Brien: Just let me ask this.

2428 Q. Sheet 6639, whose initials are J. S.?

A. I surely did know. I do not recall just now, I do not identify the man from the initials.

The Master: Now, Mr. Alrich, you go down there and pick out the bundle that has the structural steel drawings in and show them to Mr. O'Brien. (Witness inspects drawings.)

Mr. Ransom: May the record show that within the interval allowed by the Master, a tableful of drawings have been selected, I should judge roughly the number being in excess of 100.

The Master: The record may note this.

2429 By the Master:

Q. Mr. Alrich, in pursuance of the direction of the Master, have you gone hurriedly through the various bundles of drawings in the room for the purpose of selecting some to submit to Mr. O'Brien which have your initials on them as having been approved by you?

A. I have so done.

Q. There are a number of these sheets which you have handed to Mr. O'Brien?

A. There are.

Mr. O'Brien: Now, just a minute, your
2430 Honor, I am going to have something to say about this record.

The Master: Of course you are. I am simply asking the witness whether he has produced sheets that he has claimed bear his name or initials.

Mr. O'Brien: He has produced a lot of sheets of Milliken Brothers, that he has O. K.'d.

By Mr. O'Brien:

Q. That is what you mean, that big A in chalk, is your initial?

A. That means me. 2431

Q. That means Alrich?

A. Yes, it does, and everybody around the Gas Company knows it.

Mr. O'Brien: Now, your Honor, this looks like an imposition to me. I may be wrong, but they have here the working plans of Milliken Brothers, and they have brought them in here and he has an A chalked in the corner.

The Master: Just cross examine him, or I will.

Mr. O'Brien: I prefer to cross-examine, with all due respect to your Honor. 2432

The Master: All right, go ahead. If you won't, I will.

Mr. O'Brien: I will take more fun out of it than you will.

By Mr. O'Brien:

Q. Part of this bushel of plans you say you have produced, which were drawn by you?

The Master: He didn't say that at all. The witness, as I understand it, Mr. O'Brien, has produced a part of the working drawings for the construction work for the general office building, which he claims came under his supervision, and which he claims he approved, 2433 or which were initialed by him.

Mr. O'Brien: Oh, well, if that is correct, if that is the understanding, perhaps our minds agree after all.

The Master: That is all he claims.

Mr. O'Brien: If he only went over Milliken Brothers' work——

The Master: He does not claim to have been

2434 the draftsman. He said he had a lot of draftsmen doing the drafting work, and that Milliken Brothers had, and that none of the work was done until he approved it.

Q. When did you put this big A on these sheets?

A. The date is there.

Q. What date is that?

A. Referring to a certain sheet No. 350, it bears my initials and the date 6/2/13.

Q. Where is that? You don't mean the chalk A?

A. No, I mean this diminutive and modest "H. F. A."

2435 Q. I will ask you if these plans were originally made by Milliken Brothers?

A. The detail drawings indicated by you were made under my supervision in their drafting rooms.

Q. Were they not made by the employees of Milliken Brothers?

A. They were, under my supervision.

By the Master:

Q. Just answer the question. Were they made by the employees of Milliken Brothers?

A. They were, those particular drawings.

By Mr. O'Brien:

Q. You are referring to 6934-E?

2436 A. Correct.

Q. Being details D. A. M. Brothers?

A. Yes.

Q. Where was their office at that time?

A. At West New Brighton, Staten Island, although I believe they had a business office at 17 Battery Place.

Q. Where were the men working that you say you supervised in drawing these plans?

A. At West New Brighton.

Q. Did you go down there every day to supervise them?

A. I went down there every day for a long time.

Q. For how long?

A. Various periods. Sometimes I was there a considerable part of the day.

Q. Does any record in your office, or Mr. Cullen Morris' office show how much time you spent on this class of work?

A. I don't know.

Mr. O'Brien: Your Honor will note that I am asking these questions for the reason that we are going to take the position that this building cannot be charged up to any property on which a fair value must be computed, within the issues in this case.

The Master: I know your point.

Q. Your answer was that you turned in a report?

A. I said I didn't remember.

The Master: He says he doesn't know whether they have a record of how much time he spent.

Q. Would you say you went down there every day for a period of six months?

A. Not for that long a period, but very frequently for six months.

The Master: Mr. O'Brien, I take it that assuming there is no other proof on the subject, we would have to assume that this witness spent the greater part of his time while this building was under construction, on the construction work of this building. Now, if there is any claim with reference to that being a proper building chargeable to the manufacture of gas, that is another question. The point I

2440 have been trying to make from time to time is not that I may pass on any point that you may ultimately raise, but to see that certain points in the testimony are clear upon the record, so that the Master can make an intelligent finding in reference to it.

Q. Now, to cover this matter and close it up, Mr. Alrich, are we to understand that the practice was that Milliken Brothers would make out these working plans and submit them to W. Cullen Morris, and they would be returned to them approved or disapproved or revised, as occasion would warrant, and the judgment of the company saw fit?

2441 A. Your statement is not entirely correct.

By the Master:

Q. In what respect? Just correct it.

A. The design as represented by the sheets not yet reached by Mr. O'Brien, and that are lying flat out on the top of the table, were made under my supervision by my subordinates in my office. Tracings of those were furnished to Milliken Brothers, and then under my supervision their draftsmen made the detail drawings, those he is now looking over, and which were necessary for cutting and preparing the pieces in the shop. When they had com-

2442 pleted such drawings they submitted them to me for my approval.

Q. In other words, the drawings made by the Milliken draftsmen corresponded to the drawings previously made by your draftsmen?

A. They did.

By Mr. O'Brien:

Q. You mean you gave them certain data as to the character of the building, the column capacity, and the floor capacity, and they did the rest?

A. No, I don't mean that. 2443

Q. Is it not a fact, Mr. Alrich, that most of the structural steel people do about the same amount of work on each contract, I mean Post & McCord, and Milliken Brothers? You give them the details as to the structure, and they work out all the details as to the structural steel?

A. No, that is not entirely true.

By the Master:

Q. You mean not entirely correct?

A. Yes.

By Mr. O'Brien:

Q. You mean you went further than was customary in this case, did you? 2444

A. Yes, went very much further.

Q. You worked out the question of the structural steel work yourself?

A. All of the designs necessary for the making therefrom of the shop details, all of the computations as to the size of beams, columns, girders, everything of that character was computed in our own office under my supervision.

Q. Under your supervision?

A. Yes, I have the original computations.

Q. All the Milliken Brothers had to do would be to look it over, O. K. it and send it back and do 2445 the work of fabricating the building when they got the steel on the ground; is that correct?

A. They did not even O. K. it.

Q. You ordered your own steel, did you?

A. No, they ordered the steel and fabricated it.

By the Master:

Q. Before they could fabricate the steel they had to make shop drawings of their own; is that the idea?

2446 A. That is correct, to cut out the different pieces in the shop and rivet them up, but the question of strength and size was all computed under my supervision and by me.

By Mr. O'Brien:

Q. In their office?

A. In my office.

By the Master:

Q. Before the shop drawings were made in their office, is that right?

A. That is correct.

Mr. O'Brien: What I am trying to get at is what their men did down in New Brighton.

2447 The Master: That is what I got on the record. See if I am right about it. Mr. Alrich's testimony is he and his men in his office prepared the plans showing the character of construction that they required, the strength of the beams they required; the length of the beams they required, the height of the columns they required and the thickness of them, I suppose.

The Witness: That is correct.

The Master: And the general design.

The Witness: And make-up.

2448 The Master: And they sent them to Milliken Brothers. Milliken Brothers then for the purpose of fabricating the steel required additional shop drawings, those shop drawings were drawn by their men, submitted to Mr. Alrich for his approval, and on his approval, finding them in accord with his drawings and directions and plans, they proceeded to fabricate the steel and bring it on the job; is that correct?

The Witness: That is correct.

Mr. O'Brien: I won't ask any more about

that, except that I ask that it be noted on the record that each one of these sheets which the witness says was signed by his initials are stamped with a stamp reading about as follows: "Contract No. 2713, Order No. , Car No. , Milliken Bros., Staten Island, Draftsman's Department." Then opposite that another stamp appearing upon each sheet and reading as follows: "General design approved as per letter of 6/2/13. Consolidated Gas Company of New York, W. Cullen Morris, by H. W. A.", and that endorsement appears upon each one of the sheets in this particular set 6934-E. 2449 2450

Mr. Ransom: Will you put on also these of the Consolidated?

The Master: Yes, also spread upon the record that the witness among other plans has produced a sheet marked, "Consolidated Gas Company of New York, general office building, column schedule made by H. A. K., traced by H. A. K., checked by , approved by H. W. A., dated 11/19/12."

By the Master:

Q. Mr. Alrich, the paper that I have just described upon the record is what? 2451

A. It is the column schedule.

Q. Showing what?

A. Showing the cross section and make-up of the steel columns for this general office building, giving the variation of section from story to story of the building.

By Mr. O'Brien:

Q. And your idea is that all this engineering work was done by the company under you?

2452 A. Done by me.

The Master: Yes.

Mr. Ransom: Referring to this building.

By the Master:

Q. In addition to the paper I have just described you have produced a number of other sheets, one of them being "Framing plan third to thirteenth floor", which is marked "Approved H. W. A."; "pent house, roof framing and details of trusses and girders, approved H. W. A."; "foundation plan grillage, approved H. W. A."; "eleventh story and mezzanine floor, framing plans, approved H. W. A.",
2453 and a number of other plans which have your initials "H. W. A." on; is that correct?

Mr. O'Brien: We will count them.

The Master: Nine sheets altogether that I am referring to now.

A. Yes.

Q. Are there other sheets that you have not yet produced?

A. There are.

The Master: That is all I want.

Mr. O'Brien: Your Honor he has produced here set 6934-D. I would like to have it noted on the record the imprint of the Milliken
2454 Brothers on each one of these sheets, referring to this contract 2713.

The Master: I thought you had already done that.

Mr. O'Brien: This is the second volume of that. Likewise another set from Milliken Brothers which has the same imprint, with reference to the same contract, contract No. 2713.

The Master: We have had enough of that, Mr. O'Brien.

By Mr. O'Brien:

2455

Q. When was this big "A" put on here? I mean the one with the yellow chalk mark?

A. I should judge on the 28th day of January, 1913.

Q. When these came up you put the stickers on here, did you, these stickers "General Office Design, approved as per letter Consolidated Gas Company, By W. Cullen Morris"?

A. Those were put on at my direction, yes.

Q. After these came from Milliken Brothers?

A. Yes.

By the Master:

2456

Q. After you put the yellow "A" on?

A. After I put the yellow "A" on, yes.

Q. I take it that some subordinate of yours finding a yellow "A" of yours on there, put the sticker on?

A. He would.

Mr. O'Brien: I would not take that from anything he said, your Honor.

The Master: What?

Mr. O'Brien: I would not assume that from anything the witness testified.

The Master: No, but that would be my inference from the fact that he was running the office.

2457

By Mr. O'Brien:

Q. You did not examine them again after they came up, as I understood?

A. You bet your life I did, every one of them.

Q. What were you doing down in Staten Island, then?

A. Getting them ground out, then I would have to get them——

2458 Q. I thought you went down to see——

The Master: We have enough of that, Mr. O'Brien. The record is full and clear on that.

Mr. O'Brien: I am satisfied myself about it, your Honor, if you yourself are satisfied.

The Master: Yes, it is perfectly clear.

Mr. O'Brien: I was going to suggest, your Honor that I could take up the witness on some of the other properties, but it would be such an examination as you might expect without having seen the plant myself, and I don't want to take up the Court's time that way. There are one or two ways in which we could
2459 handle that, if your Honor would approve, one is by complainant putting on another witness, or by having an afternoon session to-morrow instead of a morning session or by adjourning for a day.

Mr. Ransom: Mr. Chambers could cross-examine without having that examination. I examined in chief without having the examination of the plant.

Mr. O'Brien: There are a lot of things I would like to clear up with the witness on each one of these properties, but it would be time
2460 saving if I saw the property beforehand, and I might eliminate a lot of doubts in my own mind.

Adjourned to Friday, August 1, 1919, at 1 o'clock P. M.

Last Complainant's Exhibit 182.
Last Defendants' Exhibit H.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 2461

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, August 1, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS, MR. GOETZ, of Counsel for Complainant
MR. CHAMBERS, of Counsel for defendant Newton
MR. HAYWARD (by JOHN H. CLARK, JR.), 2462
of Counsel for Public Service Commission
MR. O'BRIEN, of Counsel for defendant Swann.

HERBERT W. ALRICH resumed the stand.

CROSS-EXAMINATION CONTINUED BY MR. O'BRIEN:

Q. Mr. Alrich, do you think you could give some testimony about this office building without the copious exhibits we had yesterday.

A. Can I give you some testimony? 2463

Q. Yes.

A. I think I could, yes.

Q. Have you ever computed the amount of space that is devoted to that auditorium?

A. I never did.

Q. That was not in the original plan, that auditorium? Those upper stories were an after thought, were they not?

2464 A. It was in the original plan of the nineteen story building.

Q. Yes, but you had originally, as I understand it, a twelve story building?

A. Over a width of 65 feet only and 84 feet depth.

Q. And that building has been found a little bit crowded for the Consolidated Gas Company, and you had to have space out across the street and over in the German Savings Bank Building?

A. We did have floor space in both buildings.

Q. At that time when you said you had space outside, was any part of the twelve story building occupied by companies and persons other than the
2465 complainant?

A. Only as far as I have already testified, that a small part of one floor was occupied by the Municipal Lighting Company.

Q. By the way, what kind of a company is that? Is it a gas company or do they deal merely in fixtures?

A. As far as my knowledge was concerned, they dealt in fixtures, gas lighting fixtures.

Q. Is that a subsidiary of the complainant company?

A. I haven't a ghost of an idea.

2466 Q. You use that term quite frequently, that ghost of an idea. That is when your memory is entirely blank, I suppose?

The Master: You need not answer that question.

A. It means that I have no knowledge at all.

Q. How long have you known the Municipal Lighting Company?

A. I don't remember when I first heard of that.

Q. Do they occupy any other part of the complain- 2467
ant's property?

A. I do not believe they occupy any space in the building at all now.

Q. I didn't say the building; I said the complainant's property.

A. I have no knowledge of any occupancy of any of the Consolidated Gas Company's property by the Municipal Lighting Company.

Q. Is that company still in existence?

A. I don't know; it might not be.

Q. Now, you think for a minute, and see whether you can recall whether they occupy any part of the 2468
complainant's property anywhere?

A. If I should think for twenty minutes, I could not recall any part of the Consolidated's property that is occupied by the Municipal Lighting Company, as far as any knowledge I possess.

Q. Well, that means you are fairly positive about it?

A. It means just what I say, that I have no knowledge of any such occupancy by that Company.

Q. There are huge electric lights on top of this office building?

A. Huge electric lights.

By the Master: 2469

Q. There is a big sign up there that has been testified about?

A. Yes, a sign.

By Mr. O'Brien:

Q. Whose sign is that?

A. It belongs to the Consolidated Gas Company.

Q. Do they pay for or furnish the electric light that spells those words, "Heat, Light & Power"?

2470 A. I don't know.

Q. How do you know it belongs to the Consolidated Gas Company?

A. Because I had charge of the design and erection of that sign, the structural features.

Q. You don't know whether the Edison Company paid for it, do you?

A. The Consolidated Gas Company paid for it up to the last I knew, and I knew every penny it cost.

Q. Then you don't know whether or not the Edison Company pays for its maintenance and use?

A. I don't know anything about such relations.

2471 Q. Was there any discussion with you or within your hearing about the purposes of putting it up there?

A. I recall when the sign was being designed the discussion of an attractive display sign. Further than that I do not recall the details of the discussion.

Q. Was any representative of the Edison Company present?

A. There was not.

Q. Were their engineers consulted?

A. They were not.

2472 Q. Did the Edison Company or its subsidiary out in Brooklyn that makes signs and puts them up have anything to do with putting this up?

Mr. Ransom: I object to that as assuming a state of facts not proven, and not material.

The Master: I will allow that.

Mr. O'Brien: Just let me say this——

The Master: I am going to allow the question, don't say anything.

Mr. O'Brien: I want to show your Honor 2473
right here how well this illustrates the need of an inventory. If we knew what they were going to claim for, and if we had the list here, we would not be wasting time asking about property that they do not claim is in the case.

The Master: I have allowed the question.

(Question read by stenographer.)

A. The Edison Company had nothing to do with the erection of the sign. The subsidiary to whom you refer are parties unknown to me. I do not know whom you mean or who they are. That con- 2474
veys no meaning to my mind, that expression.

Q. Well, the Edison Company furnishes the light and the power, does it, for the electric display?

A. I don't know who furnishes it. We have the General Electric service connection in the building.

Q. Well, you don't generate your own electricity, do you?

A. We do not.

Q. You get it from the Edison Company?

A. I don't know. It might come from the United. I am not familiar with those matters.

Q. That is an engineering matter? 2475

A. That is an electrical engineering matter.

Q. What kind of current is there in that building?

A. I don't know.

Q. You don't know what kind of current there is in this building?

A. I have no connection with such matters and don't know anything about them.

2476 Q. I didn't ask you whether you had a connection with it, but don't you know whether you use the Edison Company or the United?

The Master: He has answered that he doesn't know. Next question.

Q. Is that sign kept illuminated from time to time, each day and each night?

A. It has not been in the last couple of years, since the war began.

Q. You stopped using it?

A. As far as I remember the illuminating of it was discontinued at the beginning of the war.

Q. And it has not been resumed?

2477 A. I don't think so. It might have been lighted at night without my knowing it. I am not there every night.

Q. Is that sign on all sides of the building, or just on one?

A. It is a double-faced sign, it can be read both from the north and from the south.

Q. It is quite an elaborate affair I take it. How high is it above the parapet of the building?

A. I do not recall; I think it is about 60 feet, Mr. O'Brien.

Q. As high as that?

2478 A. Yes, it is quite a high sign. The letters are 15 feet high, one row is 15 feet high and the other row is 12 feet high.

Q. And the structure itself is 60 feet about?

A. That is my recollection, that the top of it is about 60 feet high.

Q. You designed the truss work, and the steel work for the whole of the structure?

A. I did.

Q. So far as the mechanical end of it went? 2479

A. The structural end of it you mean?

Q. Yes.

A. Yes.

Q. It went through as you planned it?

A. It did.

Q. Was it put up by Milliken Brothers?

A. No, a contractor in Brooklyn named—it was a small structural concern. I do not recall the name now. It was the only contact I ever had with the firm.

Q. Was it Levering?

A. No, Levering & Garragues is a very large con- 2480
cern in Brooklyn.

Q. Was that put into use and erected at the time the 19th story was finished?

A. No, it was put up in 1914.

Q. Some time afterwards?

A. Shortly afterwards, after the building was finished.

Q. What was its purpose, to advertise the wares of the complainant?

Mr. Ransom: I object to the question as incompetent.

The Master: Objection sustained.

Mr. O'Brien: Your Honor—— 2481

The Master: The purpose speaks for itself. It was to advertise heat, light and power.

Mr. O'Brien: Our position is that a monopoly does not need an advertisement.

The Master: That is an argument.

Mr. O'Brien: That this is extraneous to the company's business, as well as dealing in appliances and things of that kind.

2482 The Master: I may agree with you, but I have sustained that objection because the purpose is apparent.

Q. The lights are, "Light, Heat and Power"?

The Master: You need not answer that. That has been testified to.

Q. Or, "Light and Heat"?

The Master: "Light, Heat and Power".

Q. Who did the excavating for this building?

A. The George A. Fuller Company.

Q. They did the excavating?

A. The excavation for the foundations, yes.

2483 Q. Or did they sublet it, subcontract it?

A. They did not sublet it as far as my recollection goes; I am very sure they did not.

Q. Are you sure Canavan Brothers didn't do it?

A. They did the trucking, if they had any connection with the work, they trucked away the excavated material.

Q. Are any of the directors of the complainant company directors of the George A. Fuller Company?

Mr. Ransom: I object to the question as immaterial, incompetent, and not within the scope of this witness' examination.

2484 The Master: Objection sustained.

Mr. O'Brien: Well, I will say on that point your Honor, that the witness has testified to knowing a great many things about the complainant company.

The Master: He was not called for that purpose on direct. I did allow him to answer a lot of questions asked by Mr. Chambers that I

thought would save time. I will sustain the objection. 2485

Mr. O'Brien: Exception.

Q. Do you know anything about the nature of the subterranean conditions there, I mean so far as the excavating went? Is it a rock foundation?

A. It is.

Q. How deep did they go down?

A. Just below the basement floor.

By the Master:

Q. Would that be about 18 feet?

A. Well, it varied. There was no place where they went down as far as 18 feet. There were several column footings adjacent to elevator pits where it was necessary to go deeper than in the case of the other columns, so that the column base would clear the elevator pit. 2486

By Mr. O'Brien:

Q. You didn't strike any unusual conditions in the excavating?

A. I do not recall that we discovered anything but earth and rock.

Q. You did not strike any drains or sewers or springs that required your going down to a greater depth in any part of the plot?

A. We did encounter a spring in a crevice of the rock, but the remedy for that, of course, was not going down deeper. 2487

Q. You did not have to go down deeper, you say, because of that spring?

A. No.

Q. How did you cope with it?

A. By water-proofing processes.

2488 Q. Was that on the lot, or along the sides of the lot?

A. It is within the interior area.

By the Master:

Q. Was it a very bad spring to handle?

A. It was troublesome.

By Mr. O'Brien:

Q. On the floor in the kitchen on the floor with the restaurant have you got a very elaborate layout there in the shape of ranges?

A. I do not know what you would regard as elaborate.

Q. How many persons do you feed per day?

2489 A. I do not know.

Q. Roughly speaking?

The Master: I think that was very fully covered, Mr. O'Brien. He said he did not know.

Mr. Ransom: It is far beyond this witness' knowledge.

Q. Why, you have been in the kitchen; you know the layout of the place?

A. In a general way, yes.

Q. How many ranges have they got?

By the Master:

Q. Is it a pretty complete kitchen arrangement?

2490 A. It is very complete.

Q. How large a range have they got?

A. Well, it is a long, typical hotel range. I am not familiar with the technical terms applied to hotel ranges. I could not say whether they call it a 50 foot range or six unit range, or what they call it.

Q. Talking as a layman from the standpoint of

fixtures, would you say it looked like a pretty com- 2491
plete kitchen?

A. It does, like a very complete kitchen.

Q. The kind of kitchen you would probably find in a very good sized restaurant or hotel?

A. Correct.

Q. Or club?

A. Correct.

By Mr. O'Brien:

Q. They have a capacity of 1,200 people, have they, per day?

A. I would believe they have, Mr. O'Brien.

Q. More, perhaps? 2492

The Master: It is a good size.

A. Yes, I believe they might be able to feed more than that.

Q. Is the food sold at cost?

Mr. Ransom: I object to that.

The Master: I did not allow that before. I will sustain the objection again.

Mr. Ransom: We shall give you the facts on this from a witness who knows.

Mr. O'Brien: If you would only hand out the facts beforehand we would save a lot of time.

Mr. Ransom: You have got a lot of informa- 2493
tion on these things already.

Mr. O'Brien. We would cut out perhaps ninety per cent of this examination if they would furnish information.

The Master: We will take it as it comes. I am allowing a good wide range because of the situation as it appears to me.

Mr. Ransom: We can only prove one thing at a time.

2494 Q. In 14th street, Mr. Alrich, to take a jump over toward the river, was that building where the ivory is stored in bags,—what you call the coal storage building, was that originally built for the storage of coal?

A. I am very sure that it was.

The Master: Is that the building with the brick walls?

Mr. O'Brien: No, that is up at 42nd Street.

Q. It was there before your time?

A. It was.

Q. Apparently it had been there a number of years?

2495 A. I don't know anything about how long it has been there.

By the Master:

Q. Well, it apparently has been there a number of years?

A. Yes.

By Mr. O'Brien:

Q. Before your time?

A. Yes, before my time.

Q. You have not any knowledge at your hand which would indicate whether it was originally built for that purpose or for a generator house or

2496 some other purpose?

A. Why, from looking at the building it is quite clear to me it had been built for a coal shed.

Q. Do you usually build brick walls for coal sheds and have pilasters that are three feet wide at the bottom to hold up the walls, to brace the walls for coal sheds?

A. If the retaining walls for a coal storage structure are not designed to resist the horizontal

thrust they would not last very long, they would 2497
push over.

Q. Are you acquainted with the way in which other gas companies store their coal?

A. I have some knowledge on the way other gas companies store their coal, yes.

Q. What companies have you in mind?

A. Oh, I have seen gas works in a number of cities.

Q. And your idea is that you ought to have a twelve-inch or twenty-four inch wall?

The Master: No, Mr. O'Brien, I will not permit you to go into that. Your question 2498
was whether this building was of an unusual construction for the storage of coal. I am going to let you ask him that.

By the Master:

Q. Is it of an unusual construction for the storage of coal?

A. It is not.

Q. Did I understand you to say from the appearance of the construction, not knowing what it was originally built for, you would say that it was built for the storage of coal?

A. I would.

The Master: Next question, Mr. O'Brien. 2499

By Mr. O'Brien:

Q. Name any of the companies that you know of that have that kind of a fortress for holding in the coal and meeting the horizontal thrusts?

Mr. Ransom: I object to the form of the question.

The Master: I will allow it. These characterizations by counsel have no part in the record, nor does it hurt you, Judge Ransom.

2500 By the Master:

Q. Are there any other gas companies that have fortresses for coal?

Mr. Ransom: I am afraid Mr. O'Brien has never been in a fort.

Mr. O'Brien: I was not in service on the other side. I served my country here last year.

Q. Do you know of any other companies that have coal storage places of similar construction or like this?

A. I know of a number of coal storage buildings.

2501 I would not say they were identical in construction with this. They all involve the same principle of the buttressed wall which is absolutely necessary to resist the horizontal thrust of any granular material retained by a vertical wall.

Q. Do some of them use brick walls for that purpose?

A. Brick and reinforced concrete.

Q. Tell us some of the companies that have them?

A. Worcester, Massachusetts, Springfield, Massachusetts.

By Mr. O'Brien:

2502 Q. Where in Worcester, Massachusetts, have you that kind of construction?

A. I did not say that they had——

Q. Were you ever in the Worcester company's plant?

A. I was not.

Q. Were you ever in Worcester, Massachusetts?

A. I have been.

Q. Did you ever seen the plant of the Worcester 2503
Gas Company?

A. At a distance.

Q. From what point?

A. I do not recall. I saw the works at a distance.

Q. You mean going through on the train?

A. No.

By the Master:

Q. Was it at the Worcester Gas Company's works that you say you saw this coal storage construction?

A. I say they had a building there.

By Mr. O'Brien. 2504

Q. Where is there in Worcester a building of that kind? I happen to know something about it. Where is the building that you say they have coal stored?

A. I do not know anything about the layout of the plant.

Q. You better look it up, Mr. Alrich. You will find they have it stored out in some acreage.

Mr. Ransom: Is counsel testifying now?

Mr. O'Brien: We might as well give it to him in passing, when he has made a palpable error and when he has admitted he has made a mistake.

Mr. Ransom: He has not admitted anything 2505
of the sort.

Q. I will ask the witness. Where did you see it from?

A. In——

Q. Do you know where it is located?

The Master: The question is where did you see it from?

The Witness: From a distance.

2506 Q. From what distance; from what point or street or place?

A. I am not familiar with the streets in Worcester. It was three or four blocks away.

Q. From what point?

A. I do not recall.

Q. Was it an airplane you were in?

A. Oh, no. I was going along the street.

Q. You do not know the street?

A. I do not know the streets of Worcester.

Q. Where were you going when you were going along the street?

2507 A. Why, that is some few years back. I do not remember.

Q. Do you know whether it is in the north, south or west part of the city?

A. I do not know.

Q. You are sure you have not mixed it up with Providence or Lowell?

A. I have been at the gas works in Lowell. I have not been at the gas works of Providence. I know they have a coal storage structure in Providence.

Q. Are you acquainted with the Burns Brothers' plants or stations for handling and storing coal in

2508 the city?

A. Burns Brothers?

Q. Burns Brothers, yes.

A. No, unless those cylindrical pockets, on the East river at about 18th street, belong to them.

Q. You do not know whether they do or not?

A. I do not know whether they belong to them or not. I have often seen them.

Q. You mean 18th street and the East river?

A. I do. 2509

Q. You mean the William Farrell Company's plant, don't you?

A. I do not know whose it is. There are cylindrical coal storage pockets there.

Q. You do not know whether the Burns Company has any fortress to hold the coal in to resist the horizontal thrust?

Mr. Ransom: I object to that as outside the issue here.

The Master: I will allow the question.

Mr. O'Brien: This is very much within the issue, here, and that is the reason I am spending my time on it. There is enough brick here 2510
to build a city.

Mr. Ransom: I object to that statement.

The Master: Yes.

Mr. O'Brien: Then we will leave it off the record. I assume the Master will visit the plants and see them himself.

Mr. Ransom: I hope so.

Q. These pilasters are on both sides of that building, aren't they?

A. They are.

Q. And they are about ten feet apart?

A. I do not recall the spacing. 2511

Q. Would you say about twelve feet?

A. I have not a drawing before me, Mr. O'Brien.

Q. Can't you picture that in your memory from your last visit?

A. I am familiar with the general appearance. I do not know the spacing of them.

Q. Well, they are quite frequent, you would say that?

2512 A. Yes; you have to have them that way.

Q. They are about three to five feet wide at the base anyway?

A. They are.

Q. And then up at the top about two feet wide?

A. They are stepped off.

Q. And then up fifteen or twenty feet they are capped?

A. Yes.

Q. They run along the whole length of the building?

A. Yes.

Q. 14th Street and 15th Street?

2513 A. Yes, they are stepped off to resist the horizontal pressure.

Q. You think they were figured out by an engineer to resist the pressure of the coal, do you?

A. I have not a doubt of it.

The Master: I think we have had enough of that.

Mr. O'Brien: You have drawn a very complete picture of the kind of structure that you say was either not intended for coal storage or was used extravagantly for that purpose. Let us get the next question.

2514 Q. On that point you have the same kind of construction up at 20th Street?

A. We have.

Q. In the purifier house that runs the whole length of the block there almost?

A. That is not a purifier house. It runs the whole length of the block.

Q. If Mr. Rabe says it is it might be safe to call it that, wouldn't it?

A. It would not be right to call it that, no mat- 2515
ter who said so.

Q. You doubt Mr. Rabe's word, then?

A. I doubt that he said it.

Q. Which house are you quibbling over now?

A. It depends on the house we are talking about.

Q. I am talking about the building that runs the whole length of the block?

A. There is no one building that runs the whole length of the block between——

Q. There is no use quibbling about it. You know the structure I have in mind, don't you?

A. I know the structures you have in mind.

Q. It is the same general construction as used 2516
here?

A. The same building, the same character of construction——

Q. And they have these pilasters?

A. Having high gable walls. In order to stiffen those walls they have the——

Q. The Hindenburg line like?

Mr. Ransom: I object to the characterization.

By the Master:

Q. Did you see the Hindenburg line, Mr. Alrich?

A. I did not.

By Mr. O'Brien: 2517

Q. How far apart, then, do you say the pilasters are?

A. On the 21st Street buildings? I do not remember.

The Master: Mr. O'Brien, I will not permit any further questions along that line. I told you once before that you had made your point.

2518 Mr. O'Brien: I wanted to know if it is the same character of construction.

The Master: You have made your point.

Mr. O'Brien: I have jumped to 21st Street, you know.

The Master: You have indicated your point that the buildings used for coal storage have the same character of construction, and you cannot do more than make your point.

Q. Referring to that particular building in 21st Street, Mr. Alrich, referring particularly to Block 978 on page 5, on the west end of that block there
2519 are some tenement houses that have been testified to, covering about ninety-two feet, and the rest of the block is occupied by the company in the same way?

A. That is correct.

Q. Is that one building or a series of buildings running east from the tenement houses?

A. That is a series of buildings, as I have previously testified.

Q. But the wall runs right along without a break?

A. The wall has been built continuously.

Q. And there are no openings in it except the
2520 round windows boarded up near the roof?

A. There are several doorways on the north side of 20th Street.

Q. You think there are?

A. I am pretty sure.

Q. You remember a doorway?

A. I am pretty sure there are several large doorways.

Q. That is your memory?

A. Yes.

2521

Q. The east end of this structure is used for the storage of coal?

A. Three of the buildings are used for the storage of coal.

Q. Three of the buildings, and they are all embraced within this continuous and continuing wall?

A. They are.

Q. And you call them separate buildings because they are separated by walls, are they?

A. Each one is separated from its neighbor by a solid brick wall extending——

Q. Of what thickness?

2522

A. I don't recall the thickness, Mr. O'Brien.

Q. Have you ever seen the plans of them?

A. I may have seen plans of the buildings.

Q. Have you got the plans of these buildings in the main office?

A. I doubt it.

Q. You do not think you carry the plans of the original structures?

A. I doubt it.

Q. Have you ever sought to get them in the Building Department in connection with any of your repair work?

A. No.

2523

Q. Three of them are used for the storage of coal?

A. Yes.

Q. And they are separated by walls?

A. Yes.

Q. They extend over what area?

A. The depth of the block, 184 feet by about 65 feet of width in each case.

Q. In each case?

A. Yes.

2524 By the Master:

Q. Three times sixty-five on the front, was that?

A. Substantially that.

Q. About 195 feet?

A. Correct.

By Mr. O'Brien:

Q. About 195 feet, then, by 184 used for the storage of coal?

A. In this block, yes.

Q. How much coal is in it?

A. About how much coal can be put in the three buildings?

Q. No, not about how much can you put in, but

2525 how much was there when you were there last?

A. I do not recall how much.

Q. Your memory is dim on that too?

A. I do not recall that.

Q. When were you there last?

A. In the coal sheds?

Q. Yes, if you were ever in them.

A. In May, I think.

Q. Of this year?

A. Yes.

Q. And you cannot recall whether there was any coal in them?

2526 A. I recall that there was some coal. I recall the coal distinctly in one, and I am very sure that there was coal in the other too.

Q. Very sure?

A. Yes.

Q. Your memory is getting better.

The Master: You need not answer that.

Q. What kind of coal was it?

A. Anthracite. 2527

Q. Any coke?

A. I don't remember any coke.

Q. Did you see any coal in any other part of this plot here at 21st Street or at this plant?

A. That plant? Oh, yes.

Q. Where?

A. In Block 952 there were many thousands of tons east of the holder and in the coal shed on Block 979 there was a considerable quantity, several thousand tons of coal, and in fact they were receiving coal at that time. The last time I was at the plant at all they were receiving coal into the coal shed on 2528 Block 979.

Q. You are not mixing it up with the Farrell plant right in the middle of the street here?

A. The Farrell plant is several blocks below. We are the lessees of this bulkhead.

Q. The street runs along there (indicating)?

A. It does, and we are the lessees of the bulkhead at Block 979.

Q. You have used that expression before, "several thousand tons of coal." You used that in regard to 42nd Street. What is your idea of a thousand tons of coal? I mean how do you gauge a pile of coal? Would you say there were 5,000 tons of 2529 coal there on that Block 952?

The Master: Which question are you putting to the witness?

Mr. O'Brien: He can answer the three at one time, your Honor.

The Master: I won't allow the three at one time. The first two I won't allow at all.

2530 Q. How many tons of coal would you say was on Block 952 when you were there?

A. Not less than 15,000 tons.

Q. That is your idea of measuring coal, 15,000 tons?

The Master: I won't allow that. That is what he says. He has not qualified as an expert. So far as I know he may not know the first thing about it.

Q. What area does the coal pile cover?

A. The space available for coal storage in Block 952 represents a length of about 255 feet and a width of about 184.

2531 By the Master:

Q. When you make the statement that you have just made do you mean it was on that space generally speaking that you saw what you think was 15,000 tons of coal spread around?

A. Yes.

By Mr. O'Brien:

Q. You are including the spaces occupied by the lawn tennis courts, aren't you?

A. That comes within that area.

Q. Yes, there is a lawn tennis court there.

A. Yes, they just shoveled up some coal recently

2532 and put in that tennis court.

The Master: He has answered that.

Q. Isn't it a matter of fact that the coal pile there only occupies one half of the space between the buildings on the east side of that block, the exhauster house and the private ownerships on the west end of the block—or rather between the holder and the houses on the east side of the block, isn't

it a fact that the coal pile only fills in about one 2532
quarter to one half of that space?

A. I am not sure that I understand your question. There is much more than half the space between the holder in Block 952 and the engine and governor house on Block 935 that is occupied by coal.

Q. Much more than half?

A. I am quite sure of it.

Q. That is your memory?

A. Yes, and I should judge the pile to be about 15,000 tons.

Q. Now you gave some testimony about a building on that same block there on what you call lot 30, 2534
didn't you?

A. I did.

Q. And you called it what; you said it was used as a machine shop?

A. I said they had some machinery and tools stored there.

Q. Are you sure you did not say it was a machine shop?

A. I think I said there was some machinery stored there.

Q. Did you ever go through that building from top to bottom, Mr. Alrich?

A. Years ago, yes. 2535

Q. How many years ago?

A. Oh, it would be ——

The Master: I do not think that is very important, how many years ago he went through it.

Mr. O'Brien: I tell you it is important, your Honor, because it is represented here as being in use.

2536 Q. Don't you remember, Mr. Alrich, that that building is entirely vacant?

A. I do not remember that it is vacant, and I do not believe it is vacant.

Q. You have not been there in how many years?

A. I have not been in the building in years.

Q. Would you be surprised to know that the Municipal Lighting Company occupies a small portion of the first floor?

A. I would believe it if it is true.

By the Master:

Q. Would you be surprised?

2537 A. No.

By Mr. O'Brien:

Q. Would you believe the counsel for the defendant, Edward Swann, if he told you there was not anything in the building except about a dozen old tires on the first floor or the ground floor of it?

The Master: Of course, he would believe it, just the same as I would.

Q. Let us get it clear that you did not go through the building before you testified.

The Master: It is perfectly clear that he has not been there in years.

2538 A. Inside the building, that is?

Q. Yes. It is a four-story building, isn't it?

By the Master:

Q. When you testified that it contained machinery and some other things, you assumed that that use continued; is that correct?

A. That is correct.

Q. But you do not know whether it is so or not?

A. No.

Q. All that your testimony amounts to with ref-

erence to that building is that there is a building 2539
there that used to be used for that purpose?

A. And generally known throughout the organization as a building for storage, company storage.

Mr. O'Brien: I move to have that stricken out.

Q. I do not want you to testify to that. All I want to know is your testimony amounts to the fact that there is a building there, which, in your judgment, being familiar with buildings and construction, might be used for storage?

A. And more than that. 2540

Q. What more?

A. It is one of the storage buildings that we have available for the storage of material.

Mr. O'Brien: I move to have that stricken out. We are dealing with buildings used by the complainant.

The Witness: We have to know that here.

The Master: I will let it stand.

Mr. O'Brien: Well, you have space enough at this time when the Housing Committee people are applying for relief. You have this space now.

The Master: Is that a speech, Mr. O'Brien? 2541

Mr. O'Brien: It is a speech, your Honor.

The Master: Or are you doing anything to determine this action?

Mr. O'Brien: This little excursion of theirs about that building does not——

The Master: Let us leave out these speeches that do not belong in the case.

2542 By Mr. O'Brien:

Q. You said Lot No. 29 was used for the storage of material?

A. I did.

Q. Did you see what was there the day you were last there, or was it three or four years ago since you have been on that little plot?

A. No, I was there very recently.

Q. What did you see there?

A. I looked over the coal pile. I went part way up on the coal pile, and the coal seemed to protrude into lot 29.

Q. Oh, the coal got into that little lot?

2543 A. It seemed to protrude into that.

Q. Protrude?

A. Yes.

Q. Into that little lot 29 by how many feet?

A. By seventy.

Q. By seventy?

A. Yes.

Q. What else was stored there if anything else was stored there?

A. The last time I saw it before that there was pipe in there, several months ago.

Q. Discarded pipe, wasn't it?

2544 A. No, I should not say it was discarded pipe.

Q. Did you examine it?

A. Examine the pipe, no.

Q. You do not consider junk and scrap iron material used by the company, or to be used, do you?

A. You may use scrap. I have used lots of it.

Q. In your description you have given us of the storage of material here and there on various plots,

you have not considered scrap in the same way you 2545
have fittings and so on that are going to be used by the company?

A. Oh, no. A scrap pile, though, is a very handy thing very often in certain circumstances.

Q. And with the price going up it has a value?

A. In reinforced concrete work scrap iron has a value.

Q. You did not give that spot any particular examination?

A. No special examination. I have my passing recollection of what was there.

Q. Did you talk with the watchman who sits in 2546
to guard this empty building when you visited there?

The Master: The question is not allowed.

Q. Did you find a watchman there the day you were there?

The Master: That question is not allowed.

Mr. O'Brien: Exception.

Q. Going back to 14th street for a minute, Mr. Alrich, you have spoken about the old retort house. There is a yard just out of the retort house and bordering on 14th street, isn't there?

A. A yard?

Q. A yard, yes. 2547

A. South of the retort house?

Q. South of the retort house.

A. No; the retort house extends clear to the property line of 14th street.

Q. Well, perhaps I have made a mistake.

A. I think you have.

Q. What you call a coke conveyor house. Coke conveyor, isn't that what you call it?

2548 A. No, coke storage I call it. That is east of the retort house.

Q. It runs to the place you call the coal space?

A. It does.

Q. And that does not run to the lot line or street line, does it?

A. It does not.

Q. The 14th street line?

A. No, sir.

Q. There is a vacant space there too, isn't there?

A. There is an open yard space.

Q. There is an open yard space where they are keeping chickens in a chicken coop.

2549 A. I don't know whether there were any——

Q. Was there a chicken coop there when you were there, and chickens running around?

A. I did not see one the last time I was there.

Q. Was that in May you said you had been at 14th street?

A. Oh, I have been at 14th street since that, but I do not recall having been in that particular yard at that time, at the time of my last visit. I don't go all over a plant every time I go there.

Q. Could you approximate the floor area of that coal storage building at 14th street?

2550 A. No, I have not the width of the building east and west in mind.

Q. Well, the building would be 206 feet along Avenue B?

A. Correct.

Q. And would it be far afield to say it is 100 feet along 14th street and 100 feet along 15th street?

A. It is much more than that. It is nearly 175 feet.

Q. 175? 2551

A. Yes.

Q. Well, put it at 200, would that be——

A. That would be too much, I am pretty sure.

Q. Between 175 and 200 feet then. So that you have a space 206 by say 190 feet?

The Master: We will say 175.

Q. 175 feet—devoted to coal storage?

A. Correct.

Q. I mean to say it is available in your mind for coal storage?

A. Yes.

The Master: Is that the fortress? 2552

Mr. O'Brien: It is only one of the many.

The Master: Is that one of the many you spoke of a moment ago?

Mr. O'Brien: Yes, your Honor.

Q. Have you ever been in the 17th street yard?

A. I have.

Q. That is located at 17th street and Avenue A?

A. Between Avenues A and B—or B and C, I should say.

Q. When were you last there, Mr. Alrich?

A. Oh, within a few weeks.

Q. That is Block 985, Lot 7?

A. Correct. 2553

Q. And that is a plot apparently 350 feet long on 17th Street, and 300 feet on 18th Street?

A. Well, Lot No. 7 is 300 feet on each street, but lots 19 and 20, used in connection therewith, are each 25 feet, making the total dimension there 250 feet.

Q. And on the west end of that block you testified to two holders being there?

2554 A. I did.

Q. And those holders are not in use?

A. They do not contain gas.

Q. Well, they were almost level with the ground when you were there?

A. They were the last time I saw them.

Q. Were the manholes open?

A. I judge they were; I have not examined the holders.

Q. Have you visited the 17th Street plant very often in the last five or six years?

A. Oh, a number of times, into the Street Department storage yard there.

2555 Q. What was the occasion of your visits generally, in connection with some of your designing work?

A. That in some cases, and in other cases in connection with such materials as they might have in stock there.

Q. Do you check up materials for the company sometimes?

A. I do under certain circumstances.

Q. What circumstances do you refer to?

A. Having them properly covered for insurance purposes.

2556 Q. Oh, you cover the insurance of the company? Do you take care of the company's insurance?

A. I do.

Q. Do you make the policies?

A. No.

Q. To what extent do you cover that kind of work?

A. I see that they are adequately covered in the amounts in the policies.

Q. See that the company is carrying enough? 2557

A. Yes.

Q. And wartime insurance, liability, bombing, and all that?

A. No, only fire and steam boiler.

Q. And that is within your domain, too, that kind of work?

A. It is.

Q. Now, these two holders that are not being used cover a space, rectangularly speaking, of about how much?

A. The space occupied by the holders?

Q. Yes.

A. I should say ninety feet east and west by the 2558 depth of the block the other way.

Q. Then right north there is a little shed that is empty, wooden shed, about ten by fifteen?

A. You mean opposite the center of the two holders?

Q. Yes.

A. Empty?

Q. Empty.

A. There was a boiler in there the last time I was in there, a vertical boiler.

Q. Are you sure of that?

A. Yes. 2559

Q. You don't know where it has gone to?

A. No, if it is not there.

Q. You are not confusing this building with the little shed that has the electrical device for working the derrick?

A. No.

Q. You didn't see a brass bed in there?

2560 A. No, I haven't seen in the building in several years.

Q. That particular building?

A. Yes.

Q. Well now the only other structure on the plot is a little office building, a little wooden structure about five by ten?

A. You mean by the northerly holder, just east of it?

Q. Oh, no, I am not referring to a little hen coop that is over there where the chickens were running around. Were there chickens there too when you
2561 were there?

A. I didn't see any chickens.

Q. You don't know they are keeping chickens on that plot?

A. They may be, I don't know; they don't belong to me.

Q. You are not interested in that kind of chickens?

A. No, I am married.

Q. Outside then of the wooden structure that is in the center of the plot quite near the holder, and the little shed over near the 18th Street fence——

A. That is by the northerly holder?

2562 Q. Oh, by it, yes, but a little bit away from it.

A. A little east of it.

Q. A structure about as high as you are, you can look over the roof, I mean a little coop.

A. Do you mean the valve house?

Q. No, I don't mean the valve house, I mean a little bit of a dog house about 10 feet long and 8 feet wide.

A. I don't identify the structure to which you refer. 2563

Q. You have it recorded as a building in your testimony.

A. I described the valve house that is located there.

Q. Now, outside those two buildings, whatever you may call them, there are no other structures upon this open space that you have referred to as being Block 985, except the office building, the little office shed where the man in charge makes his records, and that semi-open structure where they have the pipes and fittings. Isn't that correct? 2564

A. On the whole of Block 985?

Q. Yes, sir.

A. Oh, no, that is not correct.

Q. Well, name the other structures or buildings or sheds or dog houses that may be there?

A. Let us have the map, will you? (Witness looks at map.) On the south side of 18th Street, on the northerly end of the property is that steel frame structure for handling pipes.

Q. Yes.

A. It has an overhead trolley arrangement for handling pipe and fittings, and the easterly portion of that building is covered and enclosed. The westerly portion, the frame stands open, supporting the trolley system. 2565

Q. Yes. That is about 40 by 25, we will say?

A. Oh, it is very much longer than 40 feet, very much longer than 40 feet.

Q. 50 feet?

A. Possibly even 60, measured clear from the

2566 easterly end of the property. You see there is an alley right through that north and south that divides it into two parts, and you may recall the smaller fittings are stored in the easterly part of it. Now then between it and the brick office building which you have already described——

Q. Don't call it a brick office building, Mr. Alrich.

A. It is where the scale pit is.

Q. I am talking about the office where the man in charge is, the man that keeps track of the fittings that are sent away?

2567 A. There is a frame building just south of this steel frame structure, between it and the brick office building. On the east of that, on the easterly end of the property is the building that is covered with sheet steel, and then just north of it is that frame store room enclosure. Now, the other structure is the enclosure of the hoisting mechanism pertaining to the derrick.

Q. That is a little affair, ten by ten, isn't it, if it is that much?

A. I think it is more than that, probably twelve by twelve; you may be right, ten by ten.

Q. How many pipes were there, roughly speak-
2568 ing, when you were there last?

A. I didn't make an inventory of them. I remember distinctly toward the middle of the block the pipe was piled up pretty high, and over there on 19th and 20th Streets there was quite an assortment of cast iron fittings, elbows and bends, and double bends, and there were several drips. There was quite a lot of miscellaneous assortment of fittings of different sizes.

Q. Well, they are pretty well rusted, aren't they, 2569
these mains?

A. They might not look good, but they are perfectly good. Cast iron quickly acquires a superficial coat of rust, but it is all right.

Q. It looks bad to the layman?

A. It looks bad to the layman in his ignorance.

Q. If it is all pock-marked and falling apart, you would still call it usable?

A. A pipe always looks that way to a layman—pock-marked.

Q. How does it look to an engineer?

The Master: We have had enough of that.

Mr. O'Brien: If your Honor please, I want 2570
an honest statement of the material that is there, and if junk is called something else I want to find it out.

The Witness: That is not junk.

The Master: I think you have made your point. I never stop you until I think you have made your point.

Q. The complainant company does not make a business of buying large stocks of pipe and keeping it on hand, does it?

A. It always carries a stock in each of its three yards, and frequently has some in stock at other 2571
places.

Q. Well, this is particularly a distribution department plant and storage station?

A. It belongs to the Department of Mains and Services, their district headquarters.

Q. It didn't occur to you when you were there to count them up so you could say how many pieces of pipe were there?

The Master: You need not answer that.

5272 Q. Or, you didn't do it?

The Master: You can answer that question.

A. I did not count them.

Q. Would I be in error if I said there were about sixty pieces of twenty-inch pipe there?

The Master: When?

Mr. O'Brien: Well, I assume the conditions are practically the same today as they were——

The Master: Well, you are asking the witness.

The Witness: I haven't the ghost of an idea what is there today, Mr. O'Brien.

2573 Q. Now, under the general practice of the company, when they are laying any extensive system of mains, don't they have deliveries made direct to the street where the work is being done?

A. That is frequently far from being possible, owing to the traffic conditions in the street.

Q. You have never seen pipes lying in the street?

A. Oh, yes, but I say frequently in the case of particular streets. You couldn't do that on Broadway very well. The city probably wouldn't let you.

Q. You never saw them lying on Central Park West, big water mains and gas mains, did you?

2574 The Master: You needn't answer that. We have had enough of this.

Q. When did you say that you do remember ever having seen the holders there with gas in them?

A. I don't remember when they last had gas in them.

Q. How many men were there the day you were last there?

A. I didn't count them; I don't know.

Q. Were there six employed there? 2575

A. Well, during working hours the larger part of the gang pertaining to that district would be out on the street at work somewhere, out on the highway.

Q. I mean the office and the shop staff.

A. I don't recall. I just remember that the man in charge of the yard came out and gave me the high sign when I drove in the yard, and I recall one or two other men.

Q. He knows you, he knows Alrich?

A. They all know me.

Q. And then there are a couple of watchmen? 2576

A. I presume they must have watchmen there to keep the stock from being stolen.

Q. And a couple of fitters?

A. Oh, they would have more than that, the full district gang.

Q. I am not talking about the men out in the street.

A. But they all work from these headquarters.

Q. I am not talking about the men that are working on the street. I am talking about the men that are working here in the shop, the fitters.

A. They would doubtless vary from time to time and from conditions. Men that were working out 2577 on the street the day you were there might be assigned to some indoor task a week later.

Mr. O'Brien: I move to strike that out, your Honor.

The Master: I will leave it in.

Mr. O'Brien: I am trying to have him tell me how many men are employed there, who put in their time there in the shop.

2578 The Witness: That varies.

The Master: That is what he said three times.

Mr. Chambers: Well, it seems as though he ought to be able to tell us something about it.

The Witness: I am telling you the best I know.

Mr. Chambers: Whether it is a thousand or five.

The Master: Don't let us waste any more time on that.

Q. Did you pay any particular attention to the
2579 character of the enclosure that is on this plot?

A. You mean the fence?

Q. Yes, if you call it a fence.

A. No.

Q. It is fairly dilapidated, isn't it?

A. That is not my recollection.

Q. What is your recollection about the old fence?

A. My recollection was, it was a fairly good fence. I did not see any dilapidation.

Q. You would call it a fairly good fence?

A. To my recollection. I have no photograph of it.

Q. I just want to clear up a matter about that
2580 Booth & Flinn plot. You spoke of unloading coal there at one time. You went there and took charge of the apparatus, you said. The unloading was not on to the Booth & Flinn, was it?

A. No, we unloaded at the bulkhead which they had leased.

Q. And you took it down that runway, down into 15th street?

A. No, we didn't take it down the runway. We

had to cut a hole through the runway so we could 2581
dump the coal down through into Cunningham's carts, and then they drove in under the runway to the north side of 15th street, and around into the coal shed which you describe as a fortress.

Q. But you didn't take it over Booth & Flinn's lot?

A. Block 991, Lot No. 1?

Q. Yes.

A. No. We kept off of that, it was all occupied with their material.

Q. Now, up at the 21st Street works, is there any particular plan as to what coal goes into the 2582
storage house on Block 978, which is on Avenue B, and what coal is kept in the open?

A. You mean are the coals of different kind and character?

Q. How do you arrange that, what plan is there for the distribution of coal in one place or another?

A. Well, that is another matter that belongs outside of my activities.

By the Master:

Q. Then you don't know?

A. My general——

By Mr. O'Brien:

Q. Don't give us a guess. I am not looking for 2583
a guess. Is there any particular plan, is there any reason for the location of coal in one place or another?

A. Not that I know of.

Q. You know that on Block 952, where the tennis courts are, there is a huge pile of coal?

A. Yes.

2584 Q. You thought maybe there were 15,000 tons in that pile?

A. Yes.

Q. A Himalaya in your mind?

The Master: Now, Mr. O'Brien, what is the use of trying to have comparisons with things that neither you nor the witness has ever seen.

Mr. O'Brien: Well, he knows what it is. He couldn't remember yesterday what a man's name was but——

The Master: There are many of these things that I have seen that do not at all conform to your conception of what they are.

2585 Mr. O'Brien: To my conception?

The Master: And probably not to other people who read the newspapers. Now, let us cut out this comparison.

Mr. O'Brien: Well, if the witness gets my meaning your Honor, it will have served the purpose.

Q. Do you know what coal goes into Block 95 adjacent to the tennis court, and what coal is put in the coal storage on the other block near the river?

A. It is anthracite coal in all cases.

By the Master:

2586 Q. I imagine what Mr. O'Brien is trying to get, Mr. Alrich, is this: Is there any definite notion or plan, if you know, whereby certain coal goes into one place and certain other coal goes into another place, or that one bed is filled up before another, or something of that sort?

A. The general policy is to keep stock up.

Q. Suppose the both places are empty?

A. You mean all covered storage is empty?

Q. Covered and uncovered is empty? 2587

A. Yes.

Q. Now, is there any rule that you know of that requires the uncovered storage to be filled first? or the covered storage to be filled first?

A. No, I should say we most surely would begin with coal shed No. 1.

Q. Why?

A. Because it is more immediately available over there for the manufacture of gas.

The Master: All right, we have had enough of that.

By Mr. O'Brien:

Q. In other words, it is nearer the generator 2588 house?

A. Correct.

Q. And you would expect that being nearer the river where the coal comes in, and nearer the generator house, you would use that, and not this open space in the other block?

The Master: Don't answer that. I am going to make a ruling which I trust Mr. O'Brien will accept. I rule that this witness was not called as an expert with reference to the operation of this plant; that the storage of coal is apparently outside of his jurisdiction, and his 2589 testimony as to the practice of the company in regard to it, in my judgment, is a bare guess and of no value. I will not permit any further questions on it.

Mr. O'Brien: Well, I have tried to keep to this line in my questioning, and that is, present uses of the property. The witness' testimony

2590 all through on the direct and a good part of the cross, is in the present tense.

The Master: I know that.

Mr. O'Brien: And that present tense includes the past and future when you come to analyze it.

The Master: I know that, and I am letting you point out these things, but when you come to the practice of the company——

Mr. O'Brien: Well, the witness could dispose of that and say he doesn't know, or say that it does not come within his sphere of knowledge.

2591 Mr. Ransom: The proper witness can dispose of that when he comes on the stand.

Mr. O'Brien: Well, they are undisclosed, you know.

Mr. Ransom: They will come along.

Mr. O'Brien: We have a man here.

The Master: Take up the next line.

Q. When you last inspected this property did you go through the purifier houses?

The Master: Can't you identify the property?

Q. Block 978, Lot 6. That runs along from
2592 Avenue A to Avenue B and covers the whole block?

A. I don't remember having been in either of the purifying houses since about April.

Q. Are you sure you were in them then?

A. I am pretty sure I was in them in April.

Q. Did you go all the way through taking up various things at that time?

A. No.

Q. Passing from one to the other?

A. No, I was not checking anything up. 2593

Q. Well, you really knew that there were 120 purifier boxes there?

A. One hundred and twenty? I never testified to any such quantity.

Q. Well, twelve, I guess I have that wrong?

A. Twelve in one house and eight in the other.

Q. And they are sufficient to handle the gas that is made in this plant?

A. They are.

Q. And on the occasion of your inspection for the purpose of testifying, did you go all the way through the buildings on Block 978?

A. I made no such inspection for the purpose of testifying. 2594

Q. Well, you did make at some time an inventory of these properties?

A. I did not.

Q. Well, you recited a lot of things on this particular block, Block 978. You said generator house with fourteen generators, and the blowers and the condensers, the carpenter shop and all?

A. It took me eighteen years to accumulate that knowledge.

Q. Eighteen?

A. Yes, sir. 2595

Q. Now, do you think you were correct in saying that that oil tank on Block 978 was a 500,000 gallon tank?

A. I know I was correct.

Q. Do you know what the dimensions of the tank are?

A. I think it is fifty-one feet in diameter, that is,

2596 the steel tank, and the depth I do not recall; it would be thirty or forty feet deep.

Q. When was that purchased?

A. It was built in 1906. It is the largest oil tank on Manhattan Island.

Q. Does the company stock up with large quantities of oil?

A. They have to carry a stock.

Q. As large a stock as that?

A. Oh, yes, and more.

Q. Is that the chief storage of oil that they have, does the company keep most of it there?

2597 A. They have some other oil tanks which are over in the main block, and I have not the capacity of those in mind.

Q. You mean on the same block with the generator house?

A. I do.

Q. You don't know where they are located?

A. Oh, yes, I know where they are located.

Q. Where?

A. They lie side by side underground. They are south of 22nd street on the east end of block 979. Ten of them are in the building that I have described, and twelve of them are underground out

2598 in the open, making a total of 22 tanks there.

Q. Have you the capacity of those tanks, how many gallons?

A. I do not recall the capacity of those tanks.

Q. Five hundred thousand, do you think?

A. I would not want to express an opinion without a computation.

Q. You testified that on block 953, bounded by First Avenue, Avenue A, 22nd street and 21st

street, that the entire westerly end of the block is 2599
used as a central garage?

A. I did.

Q. Will you give us directly the dimensions of that?

A. Of the garage?

Q. Of the garage.

A. It consists of three buildings, one of which extends on the north side of 21st street eastwardly from First avenue, being about 215 feet long and about 50 feet wide.

Q. That is 215 feet on the street and 50 feet on the avenue?

A. Yes. Then extending north from that on 2600
First avenue is another building which comes to a point 50 feet from the south side of 22nd street.

Q. How far in does that run?

A. That extends in some distance. There are various rooms in there where the repair shops are for the automobiles, and store rooms. I do not recall how far in that extends, but it may easily be 75 feet or more.

Q. Then the space occupied by that one would be 75 feet by how many feet—what is its frontage?

A. Let me see that map.

Q. The block front there is 197 feet? 2601

A. Yes, 197 feet.

Q. You have 50 feet of it devoted to the corner garage?

A. And fifty feet here would make this 97 feet 6 inches. Now, there is another building in here which is a part of the automobile repair shop that

2602 about lines up with the easterly end of this main building and stands about the middle of the block.

Q. The middle of this half of the block, you mean?

A. Yes.

Q. And then north of that on the south side of 22nd street you have another garage?

A. That is this brick fence around there, and that is used for miscellaneous storage purposes.

Q. In connection with the garage?

A. In connection with the garage.

Q. So that we might say that half of this block, bounded as I have just described, is devoted to gar-
2603 age purposes.

A. You mean one-half of all of block 953?

Q. Yes.

A. Oh, no; one-third would be a more nearly accurate statement.

Q. One-third of it?

A. One-third.

Q. Well, it is a space about 215 feet by 197 feet?

A. 197 feet 6 inches that block is, if you care for accuracy.

Q. Well, we will have that accurate. 215 feet by 197 feet 8 inches, devoted to garage purposes?

2604 A. Yes.

Q. And the buildings thereon are how many stories high?

A. They are all one-story buildings, a high one-story.

Q. Are there basements used for storage purposes?

A. There is a basement to the main building there on the corner, but I don't believe I have ever been in it.

Q. Well, these are brick buildings, are they? 2605

A. They are brick buildings, and only the 200 foot building has a basement; the others have not.

Q. The 215 foot building, you mean?

A. Yes, the 215 foot building.

Q. And that has a basement and in it is stored automobiles and trucks?

A. I have never been in it.

Q. The trucks that are stored there are used for what purpose, the delivery of ranges and meters?

A. Yes, and general trucking service of the company. For instance, when the drawings of the general office building were brought down here yesterday we telephoned there for a truck, general transportation purposes. 2606

Q. A Ford runabout or small vehicle?

A. Well, we had to have a truck for these drawings yesterday, a Ford wouldn't do it.

Q. Well now, this takes care of all the automobiles of the company south of 110th Street, does it?

A. Why, that is my best belief, that it takes care of the automobiles south of 110th Street.

Q. And you keep your gasolene there for the trucks?

A. Yes, they have a gasolene storage tank. 2607

Q. A very large one?

A. I don't know what it holds.

Q. You don't recall what its size is?

A. No.

Q. And the tires and all parts?

A. Yes, there are many tires stored there in the main building, right on First Avenue.

Q. And you do your repair work there?

2608 A. Yes.

Q. Now, over here on 20th Street you have Lot No. 35?

A. Yes.

Q. And it stands alone there on the south side of the street, Lot 35 does?

A. You mean it is not contiguous to any other land belonging to the complainant company?

Q. If that is a fact you can state it.

A. Yes. No, we don't own anything on Block 951 other than Lot 35.

Q. And that Lot No. 35 is of what dimension, 170 feet by 92 feet?

2609 A. Correct.

Q. And the structure on that is about three stories high, or four?

A. It is three stories high.

Q. A brick building?

A. Yes.

Q. An old stable?

A. Well, it is a stable; the "old" is your characterization.

Q. And in the rear there is a yard about as wide or as deep as the building is?

A. Correct.

2610 Q. And in that yard there are stored some trucks?

A. Yes.

Q. Trucks of the National Coke Company?

A. That is possible, there might be some of their trucks there.

Qi Now, some of their's—did you count them the day you were there?

A. I didn't count them; I don't believe there were 2611
any.

Q. Do you remember how many were there when you were there, the trucks of the Coke Company?

A. I don't think there were any there.

Q. Don't you know, Mr. Alrich, that it is the National Coal and Coke Company that occupies that building?

A. I do not.

Q. Don't you know that the forty odd horses there are devoted to the Coke Company's business?

A. I do not.

Q. When did you visit it last? 2612

A. I should say some time in June.

Q. Did the man in charge know that you were there?

A. He did.

Q. Do you know what his name is?

A. I do not.

Q. Did you say you didn't see any wagons there? I said trucks a minute ago. I am including wagons now, of the National Coke Company?

A. I don't remember seeing any wagons of the National Coal and Coke Company. There were some wagons standing in the southeast corner of the yard, and some of these obscured from my view 2613
may have been of the National Coal and Coke Company. I was not making a search.

Q. You would see the big blue sign of the Coke Company on the wagon?

A. If they had been in the first line I doubtless would.

Q. You would not be surprised if I told you that to-day there are twenty of them there?

2614 A. No.

Q. Do you know how many horses are kept in that stable?

A. No.

Q. Could you say approximately?

A. No, I could not say approximately.

Q. Do you know Mr. Farley, a truckman who keeps his truck there?

A. I never heard of him.

Q. Did you see Huyler's wagon there?

A. Huyler's?

Q. Huyler's, yes.

2615 A. No; it must have been delivering goods.

Mr. O'Brien: I move to strike that out, your Honor.

The Master: Yes, strike it out.

Q. Did you go upstairs in the stable?

A. I have been upstairs in the stable. I think that was a couple of months further back that I was upstairs in the stable.

Q. What did you find up there?

By the Master:

Q. What did you see up there?

A. I saw the stalls, and I went on up where the harness maker was at work.

2616 By Mr. O'Brien:

Q. Do you know, Mr. Alrich, that the upper part of that building is not used?

A. No.

Q. You don't know that?

A. No. I know the number of horses the company owns from time to time fluctuates.

Q. Oh, the number fluctuates?

A. Yes.

Q. What do you mean by that? 2617

A. Why, sometimes the company has more horses than it has at another time.

By the Master:

Q. Sometimes they need more stable room than at other times? Is that the idea?

A. Yes.

By Mr. O'Brien:

Q. Oh, that is the idea?

A. Yes.

Q. Suppose you were told by the man in charge that they had abandoned the use of the upper part of that?

The Master: I will not allow that question. 2618
We won't get anywhere with that.

Mr. O'Brien: I move to strike out the part of his answer to the effect that the number of horses they use fluctuates.

The Master: No.

Q. Did you ever draw any plans for the repair and reconstruction of any part of this building?

A. Yes, I have already testified that shortly after I came with the company we rebuilt the interior, and built those ramps that you saw in the rear. Now, what my connection with the work was I do not recall. 2619

Q. Did you understand me to say that I saw some ramps in the rear?

A. No, but you doubtless did see them.

Q. I doubtless did? I saw the trucks, but not the ramps.

The Master: All right, that is enough.

Q. Now, how did you reconstruct the interior?

2620 The Master: That is not allowed, it has been thoroughly covered.

Mr. O'Brien: I take an exception to your Honor's ruling.

Q. Was that reconstruction done since 1905?

A. No.

The Master: The record shows when it was done. It is very fully covered.

Q. When were the walls built around Block 953, Lot No. 7?

The Master: I think that was covered, too.

Mr. O'Brien: Well, at times it is hard to avoid overlapping something.

2621 A. On the south side of 21st Street and the north side of 20th Street, that new brick fence was built in 1916, as I recall.

Q. It took the place of what?

A. A composite fence of brick and timber.

Q. Was it done by men under you?

A. That fence?

Q. Yes.

A. I had some connection with the work.

Q. I mean was it the company's mechanics that did it.

A. No.

2622 Q. The company's bricklayers?

A. No, Richard Deeves.

Q. Oh, Deeves came in on that work, too?

A. He did.

Q. In 1916?

A. I can verify that date if you will let me have that statement I have seen you have here.

Mr. Goetz: This is a duplicate of it.

(Witness examined statement.)

A. I find it here, 1912 and 1913, $17,947.84. 2623

Q. Deeves does a lot of work for gas companies, doesn't he?

The Master: That is ruled out; I don't care whether he does or not.

Q. You know Mr. Deeves?

A. I don't care whether he does or not. I recently attended his funeral.

The Master: Why do you insist on answering when I don't allow the question?

Q. He is dead now, is he?

The Master: The answer is stricken out.

Q. Has the government done any work on this plant—I will call it the 21st Street plant? 2624

A. None other than the toluol plant that I referred to as being on Block 987.

Q. The toluol plant was entirely on that block?

A. It was.

Q. There were structures erected particularly for the production of toluol?

A. There were.

Q. And built by the company under contract with the government?

A. No, they were built by the government.

Q. Well, now, let us get it right, if you know. If you don't know, say so. 2625

A. Just exactly what the relations were between the Government and the Company on the construction of these buildings, I do not know.

Q. You then don't know whether the company spent money and put them up, and whether the reimbursement was taken care of later, or whether the United States Government took the space and used it and put up their own structures.

2626 A. That is my belief, that the Government built the buildings and paid for them; I don't know; I may be wrong.

Q. Are the structures still there?

A. They are.

Q. Is the company making any plans to remove them?

By the Master:

Q. Any plans that you know of?

A. I do not know.

By Mr. O'Brien:

Q. How much space do they take up on that block?

2627 The Master: I understood that the testimony was that the whole block was used.

The Witness: No.

Q. They have an oil tank there?

A. That was our coal storage block.

Q. Oh, do you say that coal was stored there too?

A. Yes.

By the Master:

Q. Before the toluol plant was put up there?

A. We did.

By Mr. O'Brien:

2628 Q. Isn't this the plot where the big 500,000 gallon tank is?

A. Yes; and south of the tank there was always coal stored until it was cleared up for the toluol plant.

Q. You stored coal there too?

A. We did. It takes a lot of it to run a big gas works, you know.

Q. Well, the Government then used, say one-half 2629
or three-quarters of that block?

A. I think I have already estimated it in my testimony as being about two-thirds, including the building belonging to the company. One building on the north side of 20th street used by the Government as part of the toluol plant, belongs to the Consolidated Gas Company.

Q. Are those pipes exposed there part of the toluol plant?

A. That multi-tubular cooler?

Q. Yes.

A. It is part of the toluol plant.

Q. Was any part of block 978 also used by the 2630
Government?

A. South of the shaving scrubbers were and are still standing the two toluol washers.

Q. The washers are over on block 978?

A. Yes; just south of the shaving scrubbers, nearer the west end.

Q. They occupy how big a space?

A. They are about 12 feet in diameter each, so they occupy twice the area of a circle 12 feet in diameter.

Q. And you have a street here, Avenue B, between 20th and 21st street blocked off, haven't you? 2631

A. The United States Government blocked that off.

Q. Well, it is blocked off, isn't it?

A. Blocked off by the United States Government, as it states on the blockade.

Q. And it is still blocked off?

A. Yes; it says, "Closed by order of the United States Government".

2632 Q. When is it going to be opened?

A. Ask the Government; why ask me?

Q. The Government is not in control of that plant now, is it?

A. Neither am I.

The Master: Now, Mr. O'Brien, if the witness had not answered as quickly as he did, I should not have allowed the last two questions. Don't let us waste any more time.

Q. Well, the Government is not occupying the plant that is erected there?

The Master: I don't know whether they are or not. I know that the Government has put
2633 up some toluol works there, and they are still there. Go on.

Q. Is the Government still controlling two-thirds of that block 978?

The Master: Disallowed, on the ground that apparently he does not know. How should he know?

Mr. O'Brien: Well, he has come on the stand and made statements about a lot of things as if he knew them.

The Master: And you have brought out that he doesn't know anything about a lot of them,
2634 and one of those things that he doesn't know anything about is the contract relations between this company and others.

Q. I think you said that you designed the U. G. I. machines, didn't you?

A. I didn't say so.

Q. You didn't intend to convey that idea?

By the Master:

Q. Did you so testify?

A. I did not. 2635

Q. If the testimony so records you, is it an error in the testimony as so recorded?

A. It is.

Q. What is the fact?

A. I said I made the drawings from which the water gas machines used by the Company were originally built.

By Mr. O'Brien:

Q. You mean that before this 21st Street plant was put up you drew the plans for the generating machines?

A. I mean that before these water gas machines 2636
were built I had made a set of plans which with further revision by the U. G. I. were the basis of these machines.

Q. And they have been built since you came with the company?

A. These water gas machines have been installed in my time.

Q. What was the plant before that?

A. They had five Lowe process machines, and the last was a Tessie de Motay process.

Q. What idea did you intend to convey when you said that you designed the plan, that you were 2637
the creator of the U. G. I. machines?

The Master: I will not allow that question.

Mr. O'Brien: We want to have it understood, your Honor, what he means to convey. Here is a man who says he drew the plans for 12 generator machines, for the U. G. I. machines, a well known patented affair, machines that are in all of the water gas plants in the country.

2638 The Master: Well, suppose he didn't, what difference does it make?

Mr. O'Brien: Well, it makes a lot of difference. He is a witness that they have started with——

The Master: Don't let us waste time on these things.

Mr. O'Brien: He has taken up your time and mine to tell it to us.

The Master: I know, it was brought out by the cross examination of Mr. Chambers. I am not going to let you cross-examine on matters brought out by Mr. Chambers.

2639 Q. When were they put in, Mr. Alrich?

A. In 1904 and 1905 we put in the eight Lowe machines, and several years later we built the five Lowe process machines that were already in. We entirely rebuilt them, using only a part of the shells. Otherwise we used an entirely new material.

Q. Will you say why the change was made from Lowe process and Tessie de Motay machines to the U. G. I. machines?

A. I don't know what motives moved the company in making the change.

2640 Q. When I was speaking to you about the plant on 42nd Street I didn't say anything about Lot 23. You described that as a one-story brick building?

A. Yes.

Q. An office and scale house?

A. Correct.

Q. You didn't intend to convey the idea that it was used as an office now, or as a scale house now?

A. I meant what I then said. When the station

was operating and we were putting coke over in 2641
that yard, that there were then clerks there.

By the Master:

Q. In other words, it is a scale house when it is used as such, and an office building when it is used as such, is that right?

A. Correct.

The Master: Now, we have that point clear. It is not being used now. I had that impression very firmly in my mind, that the building was not in use.

By Mr. O'Brien:

Q. That pile of coal that you spoke of, thousands 2642
of tons of coal, did you notice the coke that was there at East 20th Street?

A. You mean in the coal shed pertaining to the 21st Street station?

Q. No, out where the tennis courts are.

A. Some coke there?

Q. Did you notice any coke?

A. I don't recall. We used coke in connection with anthracite coal you know, in water gas generation.

Q. You use it extensively?

A. In making water gas?

Q. Yes. 2643

A. Yes, quite some.

By the Master:

Q. You don't remember seeing any there at that time?

A. No, I do not.

By Mr. O'Brien:

Q. When you were testifying about the 17th

2644 Street station there or plant, or open space, did you include a drip machine?

A. You mean a drip wagon?

Q. No, a drip machine out there near the holders?

A. I don't know what you mean. Do you mean a drip wagon?

Q. I don't know, except what the man there said.

A. If you don't know how am I going to answer?

Q. Did you see a machine standing there rusted and broken down, near the holders?

A. I did not include in my description any such thing as I picture from your words.

2645 Q. Do you recall seeing such a machine out there?

A. No.

Q. You have not included it under any other name?

A. No.

Q. Speaking about the West 44th Street holder and West 45th Street, Mr. Alrich, have you any plans in preparation looking toward the abandonment of those holders?

A. We have not.

Q. Can you say whether that is contemplated by the complainant?

2646 A. I am positive it is not.

Q. What makes you positive about it?

The Master: I won't allow that question. You have touched on the matter and you have got your answer. You will have to take the answers.

Q. Can you say where the gas comes from to those two holders?

The Master: That will not be allowed. It has been fully covered.

Q. Do you know, Mr. Alrich, where the control 2647
lies for the gas for the Astoria Heat, Light & Power Company which is distributed over the Borough of Manhattan and the Bronx?

Mr. Ransom: I object to that.

The Master: Hasn't he testified that it is at Locust Avenue?

Mr. O'Brien: That is where the terminus of the tunnel is, but I want to know where the control is.

Mr. Ransom: What do you mean by the control?

Mr. O'Brien: I mean the place where you 2648
can control the supply of gas and shoot it up to Sedgwick Avenue or over to 65th Street or any place else.

The Master: Answer the question as you understand it.

The Witness: I don't understand it.

By the Master:

Q. Is there some point on Manhattan Island where the gas which comes through the tunnel at Locust Avenue from the Astoria plant can be diverted in various directions, shut off, and changes in current?

A. I don't know of any such point. 2649

Q. As I understand it, the gas comes from the Astoria plant through the forty-eight inch main at Locust Avenue, is that correct?

A. Yes.

Q. Isn't there some mechanism there that stops the flow of gas into that main?

A. You can shut it off at the tunnel, yes.

Q. That is one point of control?

2650 A. Yes.

Q. You can shut off the gas coming through the tunnel into that forty-eight inch main?

A. Yes.

Q. After it goes into the forty-eight inch main will it necessarily flow into one or more tanks or holders somewhere, or can it again be controlled at some point?

A. It can be controlled at numerous points beyond that, doubtless.

Q. In other words the flow of the gas can be stopped at various points along that main?

2651 A. It could.

The Master: Is that what you wanted?

Mr. O'Brien: That is what I wanted.

Q. Where are these various points other than at the terminus of the tunnel, if you know, where the gas can be stopped from flowing any further from Astoria?

A. Taking the forty-eight inch line where it ends at the Kingsbridge holder, of course it can be permitted to flow into the holder or be shut off.

Q. And if it is shut off it will back up into the tunnel again?

A. Except so far as it might flow into the forty-
2652 eight inch branch that goes down to 111th Street, unless it were cut off there.

Q. And if it were cut off at both points it would back up into the tunnel? In other words it would not go beyond those two controlling points?

A. No.

Q. It would fill up the main right back into the Astoria plant?

A. Yes. From the 111th Street branch there is a

branch of the forty-eight inch main to 132nd Street. 2653
How that is valved I do not know.

By Mr. O'Brien:

Q. Is there a main running from 110th Street over to 65th Street?

A. A main from 110th Street over to 65th Street?

Q. Yes.

A. I do not think there is any direct line main.

Q. Is there any direct connection between Locust Avenue, the termius of the tunnel, and 65th Street west?

A. I do not know of any.

Q. How does the gas get over there?

A. I do not know. I do not know that it gets 2654
there.

The Master: Mr. O'Brien, as I understand it from Judge Ransom, he expects to produce one or more witnesses on these points as to the location of mains and the operation of gas and flow of gas from place to place. Let us see if we do not get it from other witnesses. If we do not, and you think by any possibility this witness can give us any more information, we will recall him.

Mr. Ransom: I have no objection to Mr. Alrich giving any information. He has given 2655
a great deal that I did not contemplate would be given by him, but I do not believe that his testimony on this phase of the case would help us. There are other men who know a great deal more about it.

Mr. O'Brien: This will bring out what I have in mind, your Honor.

Q. Mr. Alrich, on my visit to the office at the

2656 42nd street plant, I examined a book called the transit main pumping log, and store thereon, data that showed or appeared to show gas pumped to 42nd street from 65th street, 63rd street, 58th street, 42nd street, 21st street, 132nd street, Kingsbridge, 111th street, 44th street, Ravenswood and 111th street, Astoria. Will you say if you know just where the control of those different mains, those different supplies of gas is located?

Mr. Ransom: I object to the question. It is largely an unsupported oral statement by counsel.

2657 Mr. O'Brien: Well, you are not going to controvert it, are you?

The Master: One moment. It so often happens that after we have argued for half an hour about the admissibility of a question, the witness says, "I do not know". Let us find out first whether he knows. Do you know?

The Witness: I don't know.

Mr. O'Brien: Counsel can supply it. There is no objection to counsel supplying it, and I will have the statement go on the record.

Mr. Ransom: Counsel is going to supply it if you will only finish with this witness.

2658 Mr. O'Brien: Will you state by whom, Mr. Ransom?

Mr. Ransom: By a witness.

Mr. O'Brien: I know, but——

The Master: Mr. O'Brien, if when the complainant's case is in, you have not had the information or have not had the facilities, if there is any way I can help you to find out

who it is that will testify about it, I will see 2659
that it is done.

Mr. O'Brien: My experience in the last case, your Honor, was this——

The Master: Do not tell me about experiences in other case; we are trying this case. Let us go ahead.

Mr. O'Brien: Will Mr. Ransom tell us he is going to put on Mr. Bradley, or somebody else to tell us these things?

The Master: I do not care about that. The next question.

Mr. O'Brien: That leads me to a thought 2660
I am going to have your Honor pass upon here.

The Master: All right.

Mr. O'Brien: I would like to have the record note it. There is an allegation in the complaint in this case that they have never had a fair return from this statute from the time it was put upon the statute books.

Mr. Chambers: That is a fact.

Mr. O'Brien: The allegation of their complaint is that one of the issues of this case will be the operating expenses and operating revenues of a period from 1906 down to date. It 2661
is important to say that the defendants in this case should know at the earliest possible moment in order that they may conserve time and look into the whole of that question in their investigations. I put this question to counsel when we appeared before Judge Mayer on May 16, 1919, stating how important it was for us to know whether or not those years, the

2662 operations as they are called of those years, are at issue in this case, so that our investigators may proceed to go into the operating expenses and the operating revenues of those years. The only answer made at that time by counsel for the complainant was this: In a vague or rather general way he hinted that they were going to claim what he called a going value based upon the deficiencies of those years, which by the way is an idea of going value entirely new to the defendants and does not conform to the definitions of going value made by the Court of Appeals in this
2665 State. But whatever his statement may have been intended to convey, the Court referred him at that time, and as I understood it indicated to him, that he ought to give us that information.

Recently before Judge Manton upon the argument of the motion for a stay, made by the City of New York, Mr. Garver of counsel for the complainant company made a statement that the operations of 1918 were at issue in this case. Now, it could be gathered from that that they were going to confine the issues
2664 in this case so far as operations were concerned to the year 1918. I therefore at this time and on the record ask counsel to indicate whether or not they are going to present testimony showing the operations of the years since 1906 down to date, the operating expenses and the operating revenues of the complainant, so that we may know and embrace whatever time there may be intervening between now and

the time that subject will be reached in this 2665
trial, for the purpose of investigating their accounts, records, papers, etc.

The Master: Does that complete your inquiry?

Mr. O'Brien: It does, your Honor.

The Master: Listen a moment, Judge Ransom. Are you prepared to make a statement with reference to that inquiry?

Mr. Ransom: I am.

The Master: Will you make it brief?

Mr. Ransom: Very briefly. Many weeks ago I furnished——

2666

The Master: No, I am not going to allow it.

Mr. Ransom: I insist on my right to make the statement.

The Master: Then I won't permit it. I want to know now not what you did several weeks ago. I am perfectly willing to have you say that you do not care to discuss it, and that will close it.

Mr. Ransom: I do wish to discuss it.

The Master: What I would like to know is whether you are prepared to tell Mr. O'Brien whether you are going to make one claim or another. Let us get right down to that, be- 2667
cause I have made up my mind that five minutes past three I am going to insist on the next question being put, and I am going to do it. There is too much time wasted.

Mr. Ransom: We have furnished to the defendant many weeks ago very carefully itemized statements which show in full detail the scope of our proof with respect to operating

2668 expenses and revenues in this case. The statements which we have furnished we expect to lay the necessary foundation for, in support of the details therein set forth, and upon that we shall rest our case.

The Master: Mr. O'Brien, the next question of the witness.

Mr. O'Brien: I insist, your Honor, in getting a direct answer.

The Master: You cannot do it. The next question. Let us finish this cross-examination and then we will dispose of those things.

2669 Mr. O'Brien: It is a very important matter, your Honor.

The Master: I know it is, and all I can do about it, Mr. O'Brien is this——

Mr. O'Brien: With the limited amount of time, if they are simply going to abandon the question of the years of operations and confine themselves to one year, after we have gone to work——

The Master: Let us finish this witness and then we will see what we can do.

By Mr. O'Brien:

2670 Q. Mr. Alrich, it may be fairly assumed that you are acquainted with all the construction work done by the company since 1905?

A. It may, yes.

Q. In fact since you went with the company?

A. Yes, I know pretty much all the work for years.

Q. Passed through that?

A. All the construction work for years, yes.

Q. You know just how that was handled so far as the men who did it and so forth are concerned?

A. Yes, I know a great deal about it. 2671

Q. Was it with a few exceptions done by the company and the company's employees, or was there a fixed practice or system——

The Master: I do not think I will allow that, Mr. O'Brien. Mr. Chambers has brought out in detail the instances and you have, too, in which the company did work with their own staff and the instances in which they did work through contractors. If there is some particular point that you have not covered——

Mr. O'Brien: I want to find out just whether there was a fixed rule adopted by the company of turning out certain work to contractors and 2672 doing certain other work themselves.

The Witness: There is a fixed rule which is to do the work to the best advantage.

The Master: Well, that is not quite what Mr. O'Brien wanted.

Mr. O'Brien: That is axiomatic, isn't it?

By the Master:

Q. In other words, is there any rule that new construction shall go to contractors and repair work to your office?

A. No.

Q. Or that office buildings should go out to con- 2673 tractors?

A. No.

Q. Or other kind of construction work to your office?

A. No.

Q. So there is no rule on that?

A. No.

2674 Q. It is a matter that is decided from time to time?

A. Yes.

By Mr. O'Brien:

Q. It is not regulated by the cost of improvement or the alteration or reconstruction?

A. You mean as to——

The Master: Whether it shall go to a contractor or be done by your own staff or own people?

The Witness: That might be a factor influencing it. A large job like the general office building we naturally would employ a general
2675 contractor.

Q. Well, do you know whether the large office building was offered to competitors for bidding?

A. I don't know anything about that. I presume that it was.

Q. You presume that it was?

The Master: Strike out the words "I presume that it was", because it is not responsive, and it immediately brings on further questions that are unnecessary. You do not know.

Q. Did you yourself pass upon bids for any of the work on the office building?

2676 A. I did.

Q. By whom were the bids submitted?

A. By different structural steel contractors.

Q. Did you pass upon any other bids? I mean other than the structural steel?

A. Yes, for the concrete floors in the building.

Q. And who were the bidders?

A. I don't remember.

Q. Is it hollow tile or Roebling? 2677

The Master: He says he does not know.

Mr. O'Brien: He knows what the fill is, your Honor.

Q. You remember what the fill is?

A. Most of the building has concrete floors. The original twelve story part has the tile block.

Q. Was such work as was done by outside contractors on any other properties of the company submitted to bidders for their estimates?

A. Oh, yes.

Q. Is that a practice of the company?

A. Always.

Q. Then where work was done, like by Mr. Deeves, we may assume that he was a successful bidder over others? 2678

A. Every time.

Q. Do you recall who the bidders have been?

A. Other bidders?

Q. Yes.

A. The Miller-Reed Company have bid and had some of our work; the Windsor Construction Company; the Louis Webber Building Company.

By the Master:

Q. Well, they got some of your work at one time?

A. They did. They had several jobs. 2679

Two different firms both by the name of Woodruff; the Great Eastern Construction Company, the Northeastern Construction Company.

Q. That is enough.

A. There are others, if I thought of them.

The Master: That is enough, I think, for Mr. O'Brien's purpose.

2680 By Mr. O'Brien:

Q. Perhaps you could recall having given us that, just what plan you follow as to what work is done by yourselves, and what work is done by contract?

The Master: Is there any such plan?

A. I should say—the best statement I can make is a large undertaking we would give out by contract.

Q. Can you state what work these men have done on construction?

The Master: I won't allow it, Mr. O'Brien. I think we have had enough on that line.

2681 Mr. O'Brien: Your Honor, it is very important in this case.

The Master: That is why I let you go as far as I have, to cover the points.

Mr. O'Brien: I may say we want to get into that with the experts on value, and this man does not know anything about it. All he sees is a building that is there.

The Master: We will find that out later.

Q. You may state fully the jobs done. I do not intend to go into value at all.

The Master: The value of this building was precisely the same, whether it was done by

2682 days' work, whether it was done by competitive bidding, or whether it was given out to an insider, or some favorite.

Mr. O'Brien: I am not talking about the office building, but repair work all over the city.

The Master: We will take that up later.

Mr. O'Brien: We are going to be met with and the contention is being made by the com-

plainant that they are entitled to, a fair value 2683
and that their value is the reproduction cost of that property.

The Master: We will get to that later.

Mr. O'Brien: And I want to find out how much of that was done by their own men.

The Master: I think it is fully covered. The records will show.

Mr. O'Brien: Exception.

Q. Mr. Alrich, has all the work from 1914 on been done by contractors?

A. You ask for 1914?

Q. Yes.

A. Most of the work since 1914—the new con- 2684
struction work, you mean?

Q. Yes.

A. Has been done by contractors, as before 1914.

Q. As before?

A. Yes.

Q. Did they do most of it before 1914, too?

A. Yes. These different firms whom I have named have done the building construction work. Every one of them have some part of the work.

Q. Did the company do any construction work during 1918 with its own men?

A. Very little, if any, because during the war it 2685
was almost impossible to get men. Most all work at that time was contract work.

Q. Who did the extension to the exhauster house on 21st Street?

A. My recollection is that Deeves built the building, and the piping in connection with that new exhauster was installed by our own men.

2686 Q. Do you have much trouble with meters, the consumers' meters?

A. A great deal.

Q. They get out of order frequently?

The Master: Is that in your department?

The Witness: It is not.

The Master: The question is not allowed.

Q. I call your attention to Block 1704 (indicating).

A. Yes.

Q. Briefly expressed that block is used, the westerly end of it, owned by the Standard Gas Company, and adjacent to that you occupy it as a
2687 garage and a stable?

A. Owned and occupied?

Q. Yes.

A. Yes.

Q. And then you have an annex stable next to that?

A. Did you say east or west?

Q. East.

A. You meant east, but I thought you said west.

Q. No, the piece owned by the Standard Company is on the west end of the block?

A. Yes.

2688 Q. Running from 110th to 111th Streets?

A. Correct.

Q. Right next to that you have a garage and you have got a stable?

A. Yes.

Q. Covering a strip about 100 feet wide?

A. I don't think the building is quite 100 feet. I think it is about 75 feet, Mr. O'Brien.

Q. Then you have got next to that an annex sta- 2689
ble?

A. Yes, down by 110th Street.

Q. Then back of that, at least on 111th Street side, you have got an open space?

A. On 110th Street side, you mean.

Q. No, 111th Street.

A. No, the emergency wagon house comes in on 111th Street, east of the garage.

Q. I thought that was a little more to the east.

A. Well, there is the driveway between the shed on one side and the stable and garage on the other. The driveway is paved with block.

Q. Then you have got the emergency wagon 2690
place?

A. Yes.

Q. And south of that the storage for wagons?

A. Yes.

Q. How many emergency wagons have you got?

A. Do you mean how many districts or how many emergency wagons?

Q. How many actual wagons have you got stored there at night or whenever they are all there?

A. Why, there is generally but one there.

Q. Then you have got wagons stored south of that, then adjacent to that you have got a storage of 2691
timber?

A. Yes.

Q. And pipe and fittings?

A. Yes.

Q. About how much timber was there when you were last there?

A. I don't remember. I did not inventory it.

Q. Oh, I don't mean an inventory, Mr. Alrich,

2692 and you know I don't. I want a rough estimate as to about how much timber is there.

A. I could not make one. It fluctuates. The pile they have there fluctuates.

Q. I did not ask you to give me the fluctuations. I asked you to state roughly what you saw there of timber as a quantity when you were there?

A. I don't remember.

Q. It is simply the timbering used for shoring, isn't it?

A. For shoring in the street, main work, yes.

The Master: Trench work, he said.

2693 Mr. O'Brien: Yes.

The Witness: Miscellaneous lumber used for that purpose.

Q. Then east of that you have the space occupied for coke handling?

A. For coke handling and for that reserve coal pile belonging to 99th Street.

Q. You keep a place there in reserve for 99th Street?

A. That has been the practice for the past few years.

Q. Have you ever made any computation of the

2694 amount of space that you are devoting or at least holding out for coal?

A. For 99th Street?

Q. For any place. Have you made a calculation of that?

A. You mean at any station?

Q. All over the city. The open space used for coal by the complainant?

A. I have not.

Q. Or set apart for that use? 2695

A. I have not done it, but I think such an estimate has been made.

Q. How long ago?

A. I don't remember.

Q. Who made it?

A. I don't remember. I think there is a summary of the available storage tonnage.

Q. And would Mr. Morris have that in his files or records?

A. I don't know. He might.

Q. Was it at the time that the Fuel Administration was running things here in New York that you made that up? 2696

A. No. I think—it was not made by me; my recollection is it was made before that.

Q. Before what?

A. Before the war.

Q. Could you look that up?

A. And see if there is one?

Q. And bring it with you the next time you are on the stand?

The Master: No, he is going to finish to-day.

Mr. Ransom: This is not within his knowledge.

The Master: No, he is going to finish to-day. 2697

Mr. O'Brien: You mean I will not have an opportunity to examine him further?

The Master: If you recall him at some future date you may, but I am not going to direct the witness to get that information later. Counsel may be requested to produce it, and will probably be requested to produce it. If

2698 there is such a paper you will produce it, Mr. Ransom, I take it?

Mr. Ransom: Well, of course, this is a matter on which the company has been largely controlled by the Public Commission. I will produce anything that we have got.

The Master: If you have got any estimate in your files indicating the amount of open space used for coal storage, let us have it.

Mr. Ransom: That was all gone over very fully in the winter of 1917 and 1918, and there are very comprehensive reports made out.

The Master: Let us have them.

2699 Mr. Ransom: I should be glad to produce them.

The Master: The reason I say this witness is going to finish, even though we sit here late, is because I am going to adjourn for a week, and I am not going to let this testimony stand over for another week.

Mr. O'Brien: Your Honor, I have got to ask for an opportunity to cross-examine the witness after I have seen some other plants of the Company.

The Master: What I am going to ask you
2700 and other counsel to do is to complete your cross-examination. I will always permit the recalling of witnesses for further cross if something turns up.

Mr. Ransom: Or redirect?

The Master: Or redirect. In other words, we are not going to foreclose anybody from getting information that the Court thinks or either party thinks ought to be in the record.

We must have a complete record for the determination of the issue involved; and if this witness produced by the complainant upon request of counsel for defendant is not produced later on when you want to ask other questions, you can subpœna him. 2701

Mr. Ransom: I will say that I will be very glad to have this witness held subject to call on the part of either the complainant or defendant.

The Master: If this witness dies or gets beyond the control of the complainant, I will not hold him to that responsibility. That is one point I want to make; otherwise, there will be a free opportunity of recalling at any such time for the defendants. 2702

Mr. Ransom: Or for the complainant.

The Master: Or for the complainant. But the main direct and cross redirect and recross has got to finish to-day.

Mr. O'Brien: Well, Colonel Hayward wants to examine the witness.

The Master: If Colonel Hayward's representative wants an opportunity to cross-examine, he will have the opportunity now. It will not be held open for his convenience. 2703

Mr. O'Brien: I will have to let Mr. Clark speak for himself.

The Master: You just take care of your own end of it.

Mr. O'Brien: I have got a lot of things to ask this witness.

The Master: Go ahead with it.

Mr. O'Brien: I am going ahead with it, but

2704 I want to reserve the right to cross-examine him after I have made a personal inspection of the plants. I see some things that are not fresh in his memory, your Honor.

The Master: All right, go on. Mr. O'Brien.

Mr. Ransom: We adjourned to let Mr. O'Brien finish the plants this morning.

The Master: Don't you see you are taking up time that is tremendously essential to finishing this case?

Mr. Ransom: He did not do it.

Mr. O'Brien: Yes, I did. I made use of all the time I had this morning.

2705 I will go on rapidly, your Honor, if the witness will come along with me.

Q. I call your attention now to this lot No. 18 on block 1683, being the northwest corner of First avenue and 111th street, and ask you when this company first started a training school?

A. The school of instruction you are referring to?

The Master: Yes.

Q. Now, call it by any other name you want, but tell me when it was started.

The Master: Tell us when you started that

2706 school.

A. They had had the school fully ten years or more ago, but the equipment was——

Mr. O'Brien: Your Honor, I am going to ask him to give me a direct answer.

Mr. Ransom: That is an answer.

Mr. O'Brien: I don't want to go back before the Civil War. I am asking him when this training school was started.

The Master: He was telling you. 2707

The Witness: The intangible thing, the school, existed years ago. That equipment was put in there within the last five or six years.

Q. You say this intangible thing has been there for years?

A. I mean the school. The principle of instructing the men has long been a practice of the company. As far as that particular equipment goes about which I understood you are inquiring, that has been put there within five or six years.

Q. You mean this plot was not up to that time, used for these purposes?

2708

A. I mean that that equipment was not on lot 18; that is what I mean.

Q. Where was it?

A. I don't think they had as complete equipment as that. I am under the impression that down in block 985 they had some corresponding equipment.

Q. What do they do here?

A. In teaching the men?

The Master: That has been gone over, Mr. O'Brien. I won't let you ask any more on that. He explained that they took them out in the field and showed them how to do things and instructed them. 2709

Q. Is this in the main-laying line?

The Master: Is it?

A. It is.

Q. Entirely?

A. Mains and services, yes.

Q. And how much of the year is devoted to teaching men how to work on mains and services?

A. All of the year.

2710 Q. You mean you all the time during the year have got new students coming in there?

A. We have.

Q. How many at a time?

A. It varies; I could not make a statement.

The Master: Is that in your department?

A. It is not, but I know it to be very necessary.

Mr. O'Brien: Now I am going to move to strike out that, your Honor.

The Master: I will strike out that statement. You do not want the record filled with the observations of these men. If it is not in his de-

2711 partment, he can probably say so.

The Master: It is stricken out as a conclusion of the witness. Proceed.

Q. How many have you ever seen there at one time?

The Master: I won't allow any more questions on that line.

Mr. O'Brien: Your Honor, it is directly on the subject of use.

The Master: I know it is.

Mr. O'Brien: And this witness has come here to testify to the use of that as a training school.

2712 The Master: I rule that this witness is not a competent witness to give us information that is reliable on that point.

Mr. O'Brien: He can say what he saw there. He can say whether he saw one student or one or ten.

The Master: I shall assume, there being no other evidence in the case, that it ranged from one to seven, and some days they might have

only one, and some days they might have had 2713
two or three or more.

Q. Who was in charge of them?

A. The instructor. The immediate instructor?

Q. Yes.

A. I don't know.

The Master: Who was the man in charge of the school?

A. I don't know.

Q. Who was the man in charge of the department that had the school under supervision?

A. Mr. Cullin C. Simpson.

By Mr. O'Brien:

Q. How much of the space is occupied for that 2714
purpose?

The Master: In area.

A. I don't remember just how much.

By the Master:

Q. Well, approximately.

A. I cannot tell, because these dummy mains they have are underground and not entirely visible. They would require some investigation for me to ascertain that.

By Mr. O'Brien:

Q. You mean the mains where they play being 2715
the main-fitters and setters?

A. Yes, they are underground.

By the Master:

Q. They have to uncover the mains and then cover them up?

A. Make the connection and put in one of these rubber stoppers, main stoppers, work of that kind.

Q. It might be 20 or 30 feet square?

A. Yes.

2716 Q. Or 40 or 50?

A. I don't think it is that.

By Mr. O'Brien:

Q. Maybe you can refresh your recollection by looking at lot 18. Would you say it is this space here from that over (indicating)?

A. No, it is the space immediately in front of the building across the westerly end of the block, and near the north side of 111th street bridge, a space about such as I have indicated on your map.

The Master: Mr. O'Brien, by your question you have fully developed the point that in that block there is a space of probably 30 or 40 feet square in width there on some——

2717

Mr. O'Brien: Well, it is 100 feet deep, your Honor.

The Witness: The block is.

The Master: But the space is not. Is it?

The Witness: The space used by the school is not the full hundred feet.

The Master: Whether they use it for school instruction or do not occupy all of the space is not in point. I think we have a pretty clear picture of it.

Q. How long a course is this course of study?

2718 The Master: I won't allow the question. I do not care how long a course it is.

Q. In Block 1704 you were testifying the other day about a stable and you said it was rebuilt, and then said we done something to that building every two years. What building did you have in mind?

The Master: Have you got a reference to the testimony?

Mr. O'Brien: Yes; I have not got the testi- 2719
mony, but——

The Witness: I wish I had it.

Q. Perhaps if you will look at this diagram you can say. (Handing same to witness.)

A. My memory is not so extensive now that I could identify the testimony.

Q. You know the building you worked on every two years, don't you?

A. I am trying to recall the exact testimony. I would rather see the testimony, Mr. O'Brien, and get the run of it.

By the Master:

Q. Just get in your mind the various buildings 2720
on that block and identify what required your attention every couple of years?

A. Here are two buildings, this main garage and stable and the building already described as an annex. Both of them we have done work to repeatedly, every few years. Now, as to which one of them——

By Mr. O'Brien:

Q. Is that because they are tumbled down structures, old structures, that need to be braced up every once in a while?

A. No, change of pipes, change of use. 2721

Q. Oh, you are shifting the use and changing the use every once in a while?

A. We did in the case of those buildings.

Q. Were they used for stable uses before?

A. Well, this annex as I recall was first a stable, then it was a blacksmith shop, then it was changed back to a stable and now it is a garage.

The Master: I remember he said that before.

2722 Q. Is there some officer in the company that is in charge of the properties, a superintendent of buildings that regulates all this sort of thing? Is that under some one's particular domain?

A. I should not understand it so, Mr. O'Brien, no. You mean who would have authority to say whether the use of the building was to be changed in that way?

Q. Yes, or to keep charge of the upkeep and maintenance; is that part of your particular domain?

A. No.

Q. Whose is it?

2723 A. It would depend on the department to which the building pertained.

Q. It is regulated by the general——

The Master: I assume that when a department requires floor space or a change in arrangements they would apply to some executive or officer and he would take it up with the construction or repair department; is that the idea?

The Witness: He would.

Q. Then this particular department is under the street and main department, is it?

A. The stable and garage is under the transpor-
2724 tation department and the department of mains and services have authority over their portion of it, and so forth. The manufacturing department have authority over block 1682, where the two 5,000,000 cubic foot holders are.

Q. Then how would you understand the division of the work? You have your manufacturing end of it?

A. Yes.

Q. And then you have your distribution, which is 2725
streets and mains?

A. The department of mains and services.

Q. Then you have your commercial department which has to do with the consumers?

A. Yes.

Q. Then you have your engineering department?

A. Engineering embraces several branches of the work.

The Master: We have had all that.

Q. Is there some other branch or subdivision that you have?

A. There is construction, maufacturing, mains 2726
and services, utilization, embraced in engineering, and then there is the commercial department. Utilization is a matter of engineering, although it ties in with commercial activities.

By the Master:

Q. That sums it up, does it?

A. It does.

The Master: Have you something else in mind, Mr. O'Brien?

By Mr. O'Brien:

Q. Who is at the head of the utilization department?

A. Mr. William T. Rasch. 2727

Q. Rasch?

A. Yes.

Q. An engineer?

A. He is.

Q. You said that the easterly end of this plot was used for the storage of—or was available, as I understood it, for the storage of coke. Was it used for that purpose when you were last there?

2728 A. That portion on the southerly side, the coal pile belonging to 99th Street, was on the northerly side, at the easterly end.

Q. Is that the main station of the coke company?

A. It is.

Q. Is that where they have their main office, or it it down in 15th Street?

The Master: That has all been covered. You went over that. He said he thought they had a little office in the general office building, and they had another office somewhere else.

Q. This building in West 57th Street, between
2729 Broadway and Seventh Avenue, was built during war time, wasn't it?

The Master: The record speaks for itself, and the dates. We will take judicial notice of the war time period. How long will it take you to find that? It took you some time to find the other.

The Witness: Simply to look at this sheet here.

By the Master:

Q. When was it built, don't you know?

A. I think it was 1916 or 1917 (consulting paper). Here I find it, in 1918—finished 1918,
2730 $294,718.47.

Q. When was it begun, do you know?

Mr. O'Brien: Wait a minute. I move to strike out the last answer.

The Master: Strike out the amount. It was not asked for. When was it begun?

A. In 1916, as I remember.

Q. So that its construction extended over the period from April 6, 1917?

A. It did. 2731

Q. To November 11, 1918—or it ran into the year 1918?

A. It did.

Q. During which the war was pending?

A. It did.

By Mr. O'Brien:

Q. Was that submitted to competitive bidders, the contract?

A. I don't recall.

Q. Was any part of it submitted to competitive bidding?

A. All of the sub-contract portions were sub- 2732
mitted to competitive bidding?

Q. Are we to infer from your answer that the main work was done by the company?

The Master: No, I do not think that is a fair inference. I think we are going to get this very much better from other witnesses. You take a witness called by the complainant who testifies to the cost of constructing that building and you will immediately begin to inquire as to the method of construction, how it was let out, whether there was an insider, whether it was done in day's work, whether it was done 2733
by cost plus. You will get all that.

Mr. O'Brien: Your Honor is more hopeful of what we are going to get from their witnesses than we are.

The Master: I know we are going to get it because before we finish this case I am going to know what the evidence is and what the fact is.

2734 Mr. Ransom: We have no objection if he knows, or knew.

The Master: His direct testimony was not directed to that point.

Q. Was the structural steel let out at competitive bidding?

A. It was.

Q. And who were the bidders?

A. Levering & Garrigues and the National Bridge Works. I remember those two in particular.

The Master: You see, Mr. O'Brien, we do not know whether the contract was given to the general contractor on a cost plus basis or

2735 what the terms of that contract were, or whether the Consolidated Gas Company were in any way interested in the fact as to whether the steel work was given out by competitive bidding or not. Therefore, I am not going to permit any further questions on it at this time.

Mr. O'Brien: These questions, your Honor, reach out in four or five different directions.

The Master: I know it, but I want to keep it in one direction now. I want to restrict the cross-examination to matters covered by the

2736 direct.

Mr. O'Brien: One of the purposes, of course, is quite palpable as to that building. The main idea or purpose, of course, is apparent on its face.

The Master: We will get it.

Mr. O'Brien: This company has not any right to take the consumers' money and stand out in war times, when it is so hard even for

the United States Government to have work done, and put up a building, and ask the consumers to pay a return on money spent that way. 2737

The Master: Put the next question.

Q. Do you know why that particular site on West 57th street was selected for these purposes?

A. Because it was suitable.

By the Master:

Q. Do you know?

A. I did not participate in the——

Q. It is your guess or assumption, isn't it?

A. That is my belief. 2738

By Mr. O'Brien:

Q. Mr. Cortelyou or Mr. Carter did not consult you on that point, did they?

A. No.

Q. Is it not a fact that the whole floor there outside of the street used for the clerical employees, is devoted to——

The Master: It is used for exhibiting appliances.

Mr. O'Brien: Yes.

The Master: It is in the record. The question is not allowed.

Mr. O'Brien: Not in this form, your Honor. 2739

The Master: It is in a form that I understand. I understand its use.

Mr. O'Brien: The witness may feel called upon to change his testimony to-day.

The Master: I do not care whether the witness feels called upon to change it or not.

2740 By Mr. O'Brien:

Q. This is not a place where the consumers can go and adjust their bills, is it?

A. That is what it is used for.

The Master: Back of the bank partition, he said, that is what it is used for.

Q. Is any portion of the building let out?

A. None.

Q. Do you know anything about the foundations of it?

A. I do.

Q. They go down fairly deep?

2741 A. Just below the basement floor.

Q. They would sustain a much higher building, wouldn't they?

A. The foundations under that building?

Q. Yes.

A. The columns are not so designed. No, we did not so design the columns. The footings are on best rock there. We did not design the columns for a higher building.

Q. Then the foundations were simply built for—what is it, a seven-story building?

A. Three.

Q. A three-story building?

2742 A. Yes, in the front.

Q. In the rear how many?

A. One.

Q. And you have just built the foundations for that size of building?

A. That is all.

Q. Was there any discussion about making plans for extension upward at some future date?

A. I don't know the discussions the officers of the company had.

Q. I mean with you as an engineer? 2743

A. I don't know.

The Master: He says no.

Q. Were the foundations in 15th street arranged so that later on they could take on the seven additional stories?

A. They were not.

By the Master:

Q. They were reinforced for the additional stories, were they?

A. We had to underpin the twelve story building throughout. It was a big job.

By Mr. O'Brien: 2744

Q. You started to spend money to prepare the foundations for——

The Master: He has answered it. Don't argue with him. He has testified to the fact that the building as originally designed, was not intended to be carried up any further, and when they decided to carry it up, they had to underpin the foundation and reinforce it.

Q. It was an expensive job?

A. It was an expensive job?

Q. Was any discussion had with you as the engineer, as to the question of building foundations for a much higher building? 2745

The Master: Before the 15th street building was originally built?

Mr. O'Brien: I am talking about 57th street.

The Master: He has already said that.

A. No.

Q. Was there at the time you planned the twelve-story building in 15th street any discussion had about building foundations to take care of a higher

2746 building, should they determine later to extend the building higher?

A. No, not with me.

Q. Not with you?

A. Not with me.

Q. So far as you know then, or so far as you are concerned it was not gone into at all?

A. So far as I am concerned, it was not gone into.

Q. This building in 57th street has quite an ornate facade, hasn't it?

A. I think it is a fine building.

By the Master:

Q. Well, is not the facade ornate?

2747 A. Yes, very.

By Mr. O'Brien:

Q. That was designed by the architect who put it up; I assume by the architect of the building.

A. It was designed by an architect. The architect did not erect the building.

The Master: That is what he means.

Q. No, that was the work of Warren & Wetmore?

A. It was.

Q. It has a front— What would you call that?

A. Italian renaissance.

Q. Terra cotta, the trimmings?

2748 A. I thought you meant the design.

Q. No, the trimmings, the material?

A. It is stone.

Q. Is it stone or terra cotta?

A. It is stone.

Q. What kind of stone?

A. Limestone.

Q. And the particular architecture is Italian renaissance?

A. Yes. 2749

Q. Who designed the office fixtures?

A. I don't recall. Warren & Wetmore probably did it.

Q. Did they design the interior arrangements?

A. They did.

Q. On each floor?

A. They did on the ground floor. I don't recall about the upper floors. We may have laid those out ourselves.

Q. And the steel work you designed and turned over later to the steel contractor?

A. The steel work was designed by Balcom & Darrow and revised by myself afterwards. 2750

Q. And did Balcom & Darrow do the work?

A. No. You mean did they fabricate and erect the steel work?

Q. Yes.

A. No.

Q. Who did that?

A. The National Bridge Works of Brooklyn.

Q. Balcom and Darrow are just steel inspectors?

A. They are engineers who make a specialty of designing steel work.

Q. Are they located in New York?

A. They are. 2751

Q. I don't recall at this time what you said about the upper stories of this building. I may go over on something that has already been asked, but I would like to have you give us that again.

A. I said the clerical staff and some special exhibits.

The Master: Some display was upstairs.

The Witness: Some ornamental lighting fixtures were upstairs.

The Master: You have it pretty complete.

2752 Q. Some of the consumers' ledgers and all that are kept up there?

A. Yes.

Q. That covers quite a considerable territory, doesn't it?

A. Yes.

Q. What is that, south of 46th Street?

A. The Fourth District?

Q. Yes.

A. The Fourth District extends from 23rd Street over to Fifth Avenue and up to 59th Street and along 59th Street up the west side of Central Park to 110th Street.

2753 Q. Coming up on Washington Heights to 159th Street, you have a building there?

A. West 159th Street?

Q. West 159th Street, another Lot 23, a popular number.

A. Those are my home grounds up there.

Q. That is a pretty fair sized plot, 50 by 100. You use it for an office, do you?

A. No, it is the district meter and fitting shop.

Q. A three-story building?

A. Four.

Q. You have got an office not far away, haven't

2754 you?

A. A branch commercial, commercial branch office.

Q. Yes.

A. To which this pertains in respect of the appliance and meter work.

Q. You have a branch office around on Amsterdam Avenue?

A. On Amsterdam Avenue. 2755

Q. Near 155th Street?

A. Just below 155th Street.

Q. You have quite a space there rented?

A. We have a large branch there, yes.

Q. More than one floor?

A. Two floors.

Q. A space about 100 by 100 on each floor?

A. I think so.

Q. Are all of the floors in this 159th Street occupied?

A. They are overcrowded.

Q. Do you mean with people or with meters? 2756

A. Both, and ranges.

Q. How many people are there?

A. I don't know how many men they have that go out from that branch. It is a very busy place.

Q. I do not ask you about those going out, but the men that stay in. How many men are engaged there?

A. I don't know. It is a busy place.

Q. You mean the meters have to be cured often?

A. We do not repair meters there.

Q. You repair appliances?

A. Make some repairs to appliances, there.

Q. What is it used for? I thought you said it 2757 was a meter and fitting department?

A. It is.

Q. What is the major portion of the work there done?

A. If a consumer applies for service at the branch office on Amsterdam Avenue at 155th Street orders are sent over to this shop to go and set a meter. The meter is sent from this shop and is

2758 connected up on the premises from which the application was made. If correspondingly a service is discontinued and the meter is to be brought in it would be taken into this shop in 159th Street.

By the Master:

Q. After it had been discontinued?

A. After it had been disconnected and discontinued.

Q. Disconnected, I mean.

A. The same statements would apply to a domestic range.

By Mr. O'Brien:

2759 Q. You do not mean to state or infer from what you have just said that every time a consumer stops receiving gas you take the meter out?

A. I did not so intend to be understood, and I did not say so.

Q. I know you did not say so, but your language might indicate that. They leave the meters in, isn't that the practice, in ordinary flat houses?

A. I do not know exactly what their practice is in that particular. It does not belong in my department.

Q. How often have you been to this building at 159th Street?

2760 A. I go there quite frequently. I live near it.

Q. You drop in?

A. Frequently.

The Master: That is enough on that.

Q. Mr. Alrich, can you recall for me the date of the deed of this block 3236, when the company took title to that plot?

A. It was in 1910. I don't believe I have the exact date.

The Master: Well, the record shows it.

By the Master:

2761

Q. The deed is in evidence, isn't it?

A. Yes, the deed is in evidence.

Mr. O'Brien: Well, I just wanted to start a little discussion.

The Master: He thinks about nine years ago.

The Witness: I think it was about 1910 we took title.

The Master: We will take his recollection for the purposes of your inquiry.

By Mr. O'Brien:

Q. Do you know whether any part of this plot has been taken by the City for street opening purposes?

2762

A. Yes.

Q. What part?

A. No part of the shaded area, but the part taken is excluded from the shaded area.

Q. What part was taken?

A. They took a strip down along Sedgwick Avenue first, then down along Fordham Road, and rounded off this corner here (indicating). Those were two different proceedings. This was the last, along Fordham Road.

Q. How near are you to the river there?

2763

A. This is Harlem Terrace, sixty feet wide.

Q. That is bordering the west side of the tracks?

A. Correct. Then there are four tracks of the New York Central Railroad and there are two of the New York & Putnam, making six, and then comes the river immediately beyond the railroad tracks.

Q. This is a residential section, isn't it, of the Bronx?

2764 A. Residential and institutional.

Q. You mean by that the Sailors' Home and ——

A. And those two large Catholic institutions up above the Webb Academy, both very large buildings, and then there is the University of the City of New York below.

Q. How far below is that?

A. I should judge it was half a mile below. Then there is an Hebrew Orphanage near there. There is quite a group of institutions in that neighborhood.

Q. They were there before 1911?

2765 A. I think the Hebrew Orphanage is new, or has been built since then. I may be wrong.

Q. The rest were there?

A. The rest were there, yes.

Q. Across the street on Sedgwick avenue, there are residences, detached residences?

A. You mean toward the southeast? Yes.

Q. And that holder, you say, is the largest in the world?

A. No, I say it has the largest steel tank in the world.

By the Master:

Q. The Astoria has the largest holding capacity
2766 in the world, 15,000,000?

A. Fifteen million.

The Master: This is ten.

By Mr. O'Brien:

Q. By a steel tank you mean what, the oil tank?

A. No, I meant the part holding the water. Every holder must have a tank with sufficient water in it to submerge the sections.

Q. Did you ever see the Newtown tank? 2767

The Master: I do not care whether he ever saw it or not. What has that got to do with this case?

Mr. O'Brien: Just to check up. You know we are precise, Mr. Alrich and I.

The Master: Never mind checking it up.

Mr. O'Brien: He just said this is the largest steel tank in the world.

The Master: Maybe he is wrong about it. What difference does it make?

Mr. O'Brien: Then we want to get his perspective in measuring up.

2768

Q. Any connections between this lot and the river for coal conveying, or anything of that kind?

A. No. The gas mains run out there.

Q. They run out to the river?

A. And under it.

Q. Under the river?

A. Yes, two 36 inch lines across the river at that point.

Q. When were they put in?

A. At the time the holder was built, or about that time.

Q. Where do they run to; over the Heights?

2769

A. Down Broadway.

By the Master:

Q. You mean across the Harlem river?

A. Yes.

Q. So that those pipes leading from this holder across the Harlem river, land over on Manhattan Island?

A. They do.

2770 By Mr. O'Brien:

Q. Is that for conveying the gas from the holder, or bringing it to it?

A. They could be used for both.

Q. What is it used for?

A. I do not know.

The Master: That is the same line of questioning we had before, or practically so. The point that the witness makes is that those mains leading from this holder ordinarily would be used to supply gas from the holders to the consumers, but they could use it to turn gas the other way. That is all there is about it.

2771 By the Master:

Q. Have I stated it correctly?

A. I am not sure. One of those lines goes clear down to the 132nd street holder station.

Q. Right straight down?

A. Right straight down. It changes sides at Sherman avenue, I believe.

By Mr. O'Brien:

Q. You are pretty well acquainted with these mains, aren't you?

A. Yes.

The Master: You need not answer that. I

2772 think after seven or eight or nine days, he is pretty well acquainted with some of these mains.

Mr. O'Brien: I want to know why his memory is so fresh on some things.

Mr. Ransom: Let us have it; let us have it on the record. I want to have it on the record.

The Master: I do not.

Mr. Ransom: Why he is so familiar with some of the mains, and not others.

Mr. O'Brien: I will ask that question if 2773
counsel will be pleased to have it—counsel on the other side.

Mr. Ransom: I would like to have it.

Q. I tried to get it out yesterday, why you were so familiar with that 48 inch main that ran from Locust avenue and up Sedgwick avenue, and I was not satisfied with the answers. Why is it you are so well acquainted with the layout of these mains and——

The Master: Do not answer that.

Q. Was this plan to extend a main under the river the reason of going up on Sedgwick avenue?

A. I do not understand that, Mr. O'Brien. I do 2774
not understand the question.

Q. Well, I may be getting outside the sphere of your activities.

A. I will try to give you an answer from my knowledge notwithstanding.

Q. You are ever ready, you know?

A. Thank you.

Q. Is that the reason why the holder was located on Sedgwick avenue?

A. What reason, Mr. O'Brien? I did not get it.

The Master: In order to carry mains across the river there to the Heights. 2775

The Witness: You mean we built a holder on one side of the river so we would have the task of crossing it with mains?

Mr. O'Brien: I do not want the witness to use that "we" because he does not know whether that means Mr. Carter or Mr. Cortelyou.

The Master: Let us have the next question.

2776 Q. Are there any mains, large mains like that, a 36 inch or 48 inch main extending north?

A. From this holder?

Q. Yes.

A. The 48 goes eastward through Fordham Road. Any connections other than those I have already described I am unfamiliar with. I presume your question is directed to distribution mains. I am not familiar with them at all.

Q. Do you know much about the territory north of this section here?

The Master: The Sedgwick Avenue holder?

2777 A. Yes, I have the usual familiarity of a New Yorker with the Bronx. I know the layout of streets up there. It is something like Brooklyn.

Q. Well, a little further up near the Yonkers line there is some virgin soil?

The Master: I do not care whether there is or not. What do you want to prove, that they might have built this holder up in Yonkers somewhere instead of down in Sedgwick Avenue? I do not care. They built it here.

Mr. Ransom: If you want to know why it was built there you can find out very readily.

Mr. O'Brien: They will have to answer for

2778 that.

Mr. Ransom: The City of New York can explain that.

Mr. O'Brien: Why should the company put a holder in this locality?

Mr. Ransom: Look up your municipal records and you will find out.

Mr. O'Brien: We might go over—Well, I am not running the company. Your Honor,

I will suspend here and ask the privilege as 2779
you have already indicated that I will be granted, of recalling the witness.

The Master: I do not want any misunderstanding, Mr. O'Brien. I understand now that so far as you know now you have completed your cross examination?

Mr. O'Brien: No, I have not completed it, your Honor. I would like to ask a few—Well, say one session, maybe not a whole session.

The Master: No, I won't do it.

Mr. O'Brien: One session, maybe not a whole session, further of the witness.

The Master: I won't do it. 2780

Mr. O'Brien: After I have had an opportunity to visit certain of the plants of the company.

The Master: No, I won't do that.

Mr. O'Brien: I will say that I can finish the cross examination of the witness, if you will put the matter over until the next session.

The Master: No, I won't do that.

Mr. O'Brien: I will finish it within two hours.

The Master: I won't do that. I am going to ask you to go on and complete your cross 2781
examination. I will repeat what I said before, that if later on in the case——

Mr. O'Brien: Well, I mean I will take the chances on the witness dying between now and our next session.

The Master: I want to get in the record perfectly clear, have you any further questions to ask on cross?

2782 Mr. O'Brien: I have many further questions, but I must defer them until I have had a fair opportunity to visit certain of the plants of the complainant and I will guarantee if the examination of the witness so far as I am concerned is put over to the next session, I will complete it within two hours at that time.

The Master: I shall make this known on the record, that the Master now affords counsel for the District Attorney the opportunity to proceed for as many hours as he pleases; and the Master will stay here as late as necessary to complete this cross examination. I shall infer
2783 from the fact that Mr. O'Brien asks no further questions that he has completed his cross examination.

I will likewise put on the record that I shall request the witness to be here next session, and if he comes here I will give Mr. O'Brien the opportunity to ask any further questions that may occur to him, if anything more does occur to him. But I won't place any obligation on the complainant to produce him. If he does not appear at my request I shall put the obligation on Mr. O'Brien to serve a subpœna
2784 on him.

Mr. O'Brien: I thought you reserved to us earlier in the day the right to recall him?

The Master: Yes. What I had in mind, Mr. O'Brien, was that counsel may have overlooked something or something may have occurred to you that you want to ask later on, and I want to give you every possible opportunity, but I

am not going to permit this cross examination 2785
to be unfinished. It must be finished to-day.

Mr. Ransom: Yes, I want to go on with other witnesses at the next session.

The Master: I am going to ask Mr. Alrich to be here, and I would much rather if he is here and Mr. O'Brien has anything more to ask him, to have it out of the way before you go on with another witness.

Mr. Ransom: But the obvious situation now is that a very substantial part of Mr. O'Brien's cross-examination evidently has not been touched. 2786

The Master: Oh, yes, it has.

Mr. Ransom: We did not hold a session this morning for the purpose of permitting Mr. O'Brien to spend the forenoon in an examination of these plants. Whether he has done it he will say.

Mr. O'Brien: Oh, yes, I have been to the plants this morning.

Mr. Ransom: Did you spend the whole morning on that?

The Master: We do not have to go into that. The record now stands, Judge Ransom, that cross-examination of this witness so far as 2787
Mr. O'Brien is concerned is completed. Has the Public Service Commission's counsel any questions to ask?

Mr. Clark: Yes, sir.

The Master: Proceed.

Mr. O'Brien: Before going further just one or two questions to ask.

The Master: Go ahead.

2788 By Mr. O'Brien:

Q. In that terminus of the Astoria tunnel, is there a diagram on the wall, or anything to indicate the layout of the main floor at that particular point?

A. I don't remember.

By the Master:

Q. You do not remember of there being any?

A. No.

By Mr. O'Brien:

Q. Will you tell me what part of Lot 1 in Block 1999 was sold to the Fifth Avenue Stage Coach Company?

2789 A. Referring to Sheet 15 of Exhibit 178 the property sold to the Fifth Avenue Coach Company consisted of thirty-three city lots lying east of the area shaded as lot 1.

Q. Thirty-three city lots?

A. Yes.

Q. And that was formerly used by the company for gas purposes?

A. So far as it was used, it was used for storage. Most of it was vacant land.

Q. It was used, then, for storage. You are definite about that, are you?

2790 A. There had been times when we had pipes stored there. That occupied, I should say, but relatively little of the thirty-three lots.

The Master: The result of the witness' testimony is that it was vacant land.

Q. You have in this block 2583 at the tunnel or the terminus of the tunnel of the Astoria Company a testing station, as I understand it?

A. Yes.

Q. Your answer is yes? 2791

A. Yes.

Q. And there you test the gas that comes from the Astoria Company?

A. We did.

Q. What is the purpose of that?

The Master: To see if it is a certain candle power?

The Witness: I presume so. I have nothing to do with that part of the work.

Q. Well, is the testing continually done, or is it done—do you just have it there for the purposes when you want to test?

A. No, all such observations are made every 2792 week.

Q. Do you know that to be a fact at this testing station?

A. I should believe it was.

Q. Does the complainant likewise test the gas of other companies that they use?

A. That belongs in the laboratory department. I am not familiar with it.

By the Master:

Q. Then your answer is you do not know?

A. I do not know.

By Mr. O'Brien: 2793

Q. Will we assume that you do not know with regard to this positively?

A. Why, that is my general understanding of what is done there. I have never participated in the testing.

Q. Have you ever seen them testing there?

A. I do not remember whether I have or not.

2794 Q. You just got a general feeling that they do test there?

A. I think I——

The Master: You need not answer that. We understand that.

Mr. O'Brien: He is just involving some of these things.

The Master: That is the trouble. He attempts to cover matters not within his jurisdiction, and therefore, he is indefinite about it.

Q. On this block 2583, you said you stored some mains. At the last time you were there were there any pipes stored there?

2795 A. Well, that visit was sometime back, as I said.

Q. How far back?

A. That I was on this property?

Q. Yes.

A. It would be more than a year.

By the Master:

Q. Was there any pipe there then?

A. It is my recollection that in the northwest corner there was some pipe.

The Master: I think we have been over that enough, Mr. O'Brien.

By Mr. O'Brien:

2796 Q. Was there any pipe stored there that was not used in connection with the tunnel work?

A. That is, was it such pipe?

Q. I want to know whether there was any pipe there at the time you were last there, that had not been there by reason of or in connection with the tunnel work?

A. I don't know.

Q. Will you state how many pipes were stored 2797
there, or approximately?

A. I don't remember.

Q. You said something about pipes being brought on boats there?

A. I did say something, yes.

Q. Did you speak from a direct knowledge of that fact?

A. From my experience of what has been done.

Q. I mean did you actually see the pipes being brought there?

A. I have seen a lot of materials unloaded at that bulkhead, and my impression is there was 2798
pipe unloaded there that way.

Q. Some pipe?

A. Some pipe, yes.

Q. Were you there to supervise the unloading?

A. No.

Q. Did you say you worked out the design of the holders in Sedgwick Avenue, or the holder?

A. I said that together with engineers of the Bartlett-Hayward Company, I designed the holder.

Q. Don't you know they make a business of supplying holders complete?

The Master: That is clear on the record. Of 2799
course they do. It does not change the fact that this witness may have designed these.

Q. You were pretty clear about that main going under the river from the Sedgwick avenue holder?

The Master: That is not allowed.

Q. You remember that?

The Master: You need not answer that.

Q. Why did you say the other day that you had not a ghost of an idea where the mains go to after they leave that property?

2800 A. I was referring to the distribution mains, and so stated it.

Q. These are not distribution mains?

A. I think that one of them could be so used.

Q. Then there is a distribution between the distribution main and some other kind of main?

A. Yes.

Q. There is an understanding to that effect in your engineering department?

A. That there are distribution mains and transit mains?

Q. That is the idea that I have been trying to get
2801 at for a day and a half. We have got something like a transit main and you have got other mains that are distribution mains?

A. Yes.

The Master: Mr. O'Brien, I am not going to permit any further examination of this witness as to mains and pipes and things of that sort. He was not called for that purpose.

Mr. O'Brien: Your Honor can easily see how this kind of a witness——

The Master: You will get that from another witness.

Mr. O'Brien: Only some one with a wonder-
2802 ful vision could figure out now from all his answers, when I am asking him about mains, that they were not predicated on distribution mains or transit mains.

The Master: I do not care anything about that.

Mr. O'Brien: That is the type of witness we have.

The Master: He was called to give evidence as to the various properties described in the

deeds, the structures upon them and their gen- 2803
eral use. I am not going to permit any further examination about mains. I am going to hold this examination down to the direct.

Q. Then when you made that remark about the ghost of an idea, you mean the distribution mains, and not the others?

The Master: You need not answer. The question is not allowed, and exception to Mr. O'Brien.

Mr. O'Brien: Then I will suspend here, in the same way, and ask that I be given two hours at the next session.

2804

The Master: There is an understanding on that subject. Your examination is completed. Now, Mr. Clark.

Mr. O'Brien: I would state on the record I have not had an opportunity to visit all of the plants. I have visited this week and inspected as well as I could in the time I had the plants at 14th Street, at 17th Street, at 21st Street, and 22nd Street, and 42nd Street, and I have not had any time to examine the other plants. I would like to before finishing the examination of the witness, although I can now guarantee the Court that I will not consume more than 2805
two hours in the continuance and finishing of that examination, and I would like that opportunity to continue at the next hearing with that examination.

The Master: The Master rules that you having no further questions to ask at this time, your cross examination is completed. I will dispose of the opportunity to permit you to

2806 ask further questions after Mr. Clark gets through.

Mr. O'Brien: Exception.

CROSS-EXAMINATION BY MR. CLARK:

Q. Mr. Alrich, are you familiar with the construction of holders?

A. I am.

Q. Will you turn to page 5 of this Exhibit 178.

A. I have it.

Q. On Block 953 there are four 400,000 holders?

A. Correct.

Q. And two 360,000 holders?

A. Correct.

2807 Q. Can you state when to your knowledge the last holder of that size was built by the complainant?

A. I can.

Q. When was it?

A. 1913.

Q. A holder of the size to hold 400,000 cubic feet?

A. Yes. I mean as small as that.

Q. Was that a storage holder that was built in 1913?

A. No, it was a relief holder.

2808 Q. These four holders here are not relief holders, are they?

A. They are not.

Q. They are storage holders?

A. They are.

Q. When was the last time that you know of this company's building a storage holder as small as that?

A. We put one up at the Tarrytown Works in 1917.

The Master: The Tarrytown Works? What has that got to do with this case? 2809

Mr. Clark: I mean the City of New York.

By the Master:

Q. Mr. Clark's question was when was the last time the Consolidated Gas Company which I assume operates in Manhattan Island and hereabouts built a storage gas holder as small as 400,000 cubic feet?

A. I don't remember.

Q. Quite some years ago?

A. It would be some time back, yes.

By Mr. Clark:

Q. Before you came with the company? 2810

A. Yes.

Q. That is in the last nineteen years they have not built storage holders as small as that?

A. Not on Manhattan Island, no.

Q. Have they anywhere else but on Manhattan Island or the City of New York?

The Master: The Consolidated Gas Company.

A. No.

Q. What is the smallest holder they built at the Astoria plant?

A. The relief holder there, 1,000,000 cubic feet. 2811

By the Master:

Q. You mean the smallest storage holder they built?

A. 15,000,000 cubic feet.

By Mr. Clark:

Q. That is the smallest storage holder?

A. Yes.

Q. What is the smallest relief holder?

A. 1,000,000 cubic feet.

2812 Q. Your answer to the question as to the 100,000 foot holder would apply equally to the other holders that appear on these various pages?

The Master: I take it that what you mean, Mr. Clark, is all of these smaller holders are over nineteen years old?

Mr. Clark: Yes.

By the Master:

Q. Is that right?

A. Yes.

By Mr. Clark:

Q. All of these small holders are over nineteen years old?

2813 A. Other than relief holders.

Mr. Clark: It is not that they are over nineteen years old, but none of that type or capacity have been built within nineteen years.

The Master: I think that is perfectly clear.

Q. Mr. Alrich, you speak in several places in your testimony about the scrubbers that are in the different scrubber buildings and some of them outside in the open. You call those in some places convertible scrubbers, in some places shaving scrubbers, and in some places vertical scrubbers. Will you explain the difference between those scrubbers

2814 and which is the more modern?

A. The difference betwen a vertical scrubber and a convertible scrubber is that in one place the reporter made an error and in the other he did not. That is the word convertible should have been vertical.

By the Master:

Q. How about the other, the shaving scrubber?

A. A vertical scrubber may not be a shaving scrubber. It may be what is known as a hot scrubber.

Q. Is either type more modern than the other? 2815

A. No.

By Mr. Clark:

Q. They are used to procure different results?

A. Yes, both take tar out of the gas, but the shaving scrubber is to remove the more persistent tarry vapors.

Q. The shaving scrubber is then more efficient that the other?

A. No, they relate to different parts of the process of purification.

Q. Then you need both kinds of scrubbers for all gas? 2816

A. Yes, one is a primary scrubber.

By the Master:

Q. Which is that, the vertical?

A. The hot scrubber is a primary scrubber.

Q. That is vertical, isn't it?

A. Well, it is vertical. The shaving scrubber is also vertical, too.

The Master: The hot scrubber is the primary scrubber.

By Mr. Clark:

Q. One is the vertical scrubber and then the shaving scrubber? 2817

A. Yes, and both are used.

Q. It is not always necessary to use both, is it?

A. That is a matter of experience.

Q. Is it or is it not always necessary?

A. That is decided by the judgment of the engineer in charge of the particular plant. Some engineers find it desirable.

The Master: I would not press it any more, because I do not think his testimony is reliable

2818 on that point. I have allowed you to ask it, but it does not make much of an impression on my mind one way or the other.

Q. On the question of station meters, Mr. Alrich, you mentioned two different kinds of station meters. Did you explain the difference between them, and whether one is more modern than the other?

A. No, I should not say—you are referring, say, to the rotary meter that I mentioned at 21st Street, and also the wet meter?

Q. Yes.

A. No, I would not say so. The wet meter is the most accurate meter. It is the older in type, but
2819 has never been excelled for accuracy.

Q. What is the advantage of the newer type, the rotary meter?

A. Principally in the smaller space occupied.

Mr. Clark: I have no other questions now, your Honor.

The Master: Do you want to call another witness to-night, or is it worth while?

Mr. Ransom: I have a very few questions on re-direct, but if Mr. O'Brien is not altogether finished I would rather wait.

The Master: Then suppose you say you
2820 haven't any more questions at this time.

Mr. Ransom: I do not know that I quite want to do that.

The Master: Then don't say anything about it.

Mr. Ransom: I have another witness whom it might be helpful to put on.

The Master: I do not think the time would be worth while. I think I would rather have it in the position in which the case rests.

We will adjourn now until Monday morning.

the 11th of August, at 10 o'clock. I am going 2821
to hold sessions that week and the following week from 10 to 1 and from 2 to 5.

I am doing that with the understanding that Mr. Chambers will explain to Judge Nichols that I have to some extent violated the order of Judge Mayer in order to help Judge Nichols and Mr. Chambers complete the case in Albany, and upon the representation made, upon what I have no doubt is the honest judgment of Mr. Chambers, that it can be finished in four days.

Mr. Ransom: May I say a word on that? It is a question of how much time will be taken 2822
by the complainant to put in a very small quantity of rebuttal. My information from the complainant's counsel, who probably knows as much about it as any one——

Mr. Chambers: No, you cannot place any reliance on what he says about anything.

Mr. Ransom: He says it will not take as long as that.

The Master: We are not going to lose any time, because I am going to run thirty hours in the week of the 11th and thirty hours in the week of the 18th, which will make up the time we are losing next week. I am doing that at a 2823
great deal of inconvenience to myself. It is going to be hard, but I want to help out Mr. Chambers and the court in Albany. All I am asking is that Mr. Chambers will please have in mind that I am doing all I can, and that no further time can by any possibility be taken. If that case is not finished somebody else in your office will have to take it up and finish it for you.

2824 Mr. O'Brien: So far as your adjourning to the 11th is concerned, on condition that the defendants agree to put in six hours at a morning and afternoon session——

The Master: I have not asked for your agreement, Mr. O'Brien.

Mr. Chambers: He has not said that.

The Master: I have made a ruling.

Mr. Chambers: As I understand it you have not asked us to consent to anything.

The Master: No. I have given notice that I shall exercise my discretion in granting the adjournment to Mr. Chambers to continue the
2825 trial at the rate of thirty hours a week for the following two weeks in order to make up the time I am losing next week.

Mr. O'Brien: To have a morning and afternoon session for the following two weeks?

The Master: Yes, and after that I will go back to 9:15 to 1 again.

Mr. O'Brien: Of course I may be a little premature in my protest against it, but I will have to protest against going on with a morning and afternoon session during the dog days of August.

2826 The Master: I am getting quite used to protests, and I will have to arrange with the weatherman for cool weather.

Mr. O'Brien: I will have to protest vigorously against it.

Mr. Ransom: The position of the complainant is what I have hitherto indicated when this matter first came up.

The Master: What is that?

Mr. Ransom: We do not desire to be in any way discourteous to Mr. Chambers. We do

not believe that the circumstances are such as 2827
to warrant this adjournment, but we do not make a formal objection.

The Master: Now, Mr. Alrich, will you please be here on the morning of the 11th at 10 o'clock?

Mr. Alrich: I will.

The Master: My notion at this time is that if Mr. O'Brien has any more pertinent questions at that time I shall grant his application to recall the witness. That, however, in no manner, shape or form shall be taken as meaning that I have consented to open up the cross 2828
examination. The cross examination of the District Attorney is complete, and the only point is that I may allow a motion to recall a witness for some more cross questions.

Mr. O'Brien: I do not quite understand that. You say it is not cross examination, but that I may recall him.

The Master: I want the record to be perfectly clear that the District Attorney's cross examination at this time is completed, he having been afforded the opportunity to proceed. I am stating for the record now, so that Mr. O'Brien may, if Mr. Alrich is here on the 2829
morning of the 11th and he then makes his application to recall the witness because he has some other questions, of course I will grant the application.

Mr. O'Brien: That means he is going to be here and we are going to continue it.

The Master: It means what I say.

Mr. O'Brien: Only I take the risk of poor Alrich being waylaid meantime.

2830 The Master: That is just what it means, that I am going to protect the testimony.

Mr. Chambers: I may have two or three questions to ask.

Mr. O'Brien: Your Honor will permit me to record an exception to your ruling with respect to my being allowed to proceed with the cross examination of the witness at the next session as part of the cross examination.

The Master: Don't you want it?

Mr. O'Brien: Yes, I want it, but without any strings on it. With regard to any understanding that may be entertained at this time
2831 that we are assenting to going on twice or three times a day during the two weeks following August 11th, I protest against any such arrangement, and against being compelled to continue the trial under those conditions.

The Master: Now, Mr. Chambers, do you want to say anything else?

Mr. Chambers: One thing more. I would like to have during this week, counsel furnish us with the following information:

1. Area of each parcel or block.

2. Actual original cost of each parcel when
2832 acquired by present or predecessor gas company; if a parcel was acquired in different parts, please give cost of each part.

3. State for each parcel or part whether it contained any buildings or improvements at time of such acquisition.

4. State generally in each case what such buildings or improvements were.

5. Date of such acquisition of each parcel or part thereof and name of vendor.

6. Date when each parcel or part was first devoted for gas purposes. 2833

7. Date when any parcel or part once used for gas purposes was sold, condemned or leased, and possession passed to vendee or lessee.

8. Date when any parcel or part ceased to be used for gas purposes.

9. Amount of total consideration received for each such parcel or part.

10. State generally for each such parcel or part buildings or improvements thereon at time of sale, condemnation or lease.

Mr. Ransom: May I ask what you are going to do with it when you get it? 2834

Mr. Chambers: Use it in the trial of the case.

Mr. Ransom: I ask that the counsel for the defendant state, in connection with this voluminous request, what he wishes to do with it.

Mr. Chambers: We are going to use it for all purposes of the defense of the case. We need it, we want it.

Mr. Ransom: Is that your full statement?

Mr. Chambers: It will expedite the case.

Mr. Ransom: Is that your full statement?

Mr. Chambers: It is full enough. 2835

Mr. O'Brien: I again press the request that I made formerly for a definite statement from counsel for the complainant as to whether they intend to offer proof covering the operating expenses and the operating revenues for the period of the enactment of the statute down to the present time. Your Honor can conceive that if that is going to be eliminated from the

2836 case we should know it, so we will not waste any time on it. It is a fair question to ask, and very unfair for counsel for the complainant to say that we should draw our own conclusions from data already furnished us as to what their purpose is. Now, Mr. Garver did say——

Mr. Ransom: That is not an accurate statement of what Mr. Garver said.

Mr. O'Brien: I will read the report of the hearing——

The Master: Don't do that, Mr. O'Brien. I am going to rule that at this time I will not re-
2837 quire counsel to make the statement requested by you.

Mr. O'Brien: Just a minute until I complete the record on this. We will ask for the adjournment of this trial when that proof is submitted, in order that we may meet that situation.

The Master: Well, I may grant it. We will take care of it when we get to it.

Mr. O'Brien: I want to read Mr. Garver's statement.

The Master: We will adjourn now until
2838 August 11th at 10 A. M.

Adjourned to Monday, August 11, 1919, at 10 A. M.

Last Complainant's Exhibit 183.
Last Defendants' Exhibit H.